SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1944

No. 558

AMERICAN TRUCKING ASSOCIATIONS, INC., SOUTHERN MOTOR CARRIERS' RATE CONFERENCE, FLAMINGO TRUCK LINES, INC., ET AL., APPELLANTS,

vs.

THE UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, LEGH R. POWELL AND HENRY W. ANDERSON, RECEIVERS OF THE SEABOARD AIR LINE RAILWAY COMPANY

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF VIRGINIA

VOL. II

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C. H. FREDRICKSON was sworn and testified as follows:

Direct examination.

By Mr. Watkins:

Q. Mr. Fredrickson, with what company are you connected?

A. Fredrickson Motor Express Corporation.

Q. What is your position with that company?

A. President and general manager.

Q. How long has that company been in operation?

A. Since 1921.

Q. Have you filed application?

A. Yes, sir.

Q. Under the grandfather *cal*use?

[fol. 1090] A. Yes, sir.

Q. What territory do you serve, Mr. Fredrickson?

A. From Charlotte to Greensboro, Charlotte to Winston-Salem, Charlotte to Statesville, Charlotte to Hickory, and we haul intermediate points, and Charlotte to Asheville.

Q. And on the routes you have described you serve all intermediate points?

A. Yes.

Q. I show you a proposed schedule attached to applicant's application, 86,687, Sub. No. 6, and ask you whether or not you serve the points shown from or between Charlotte and Rutherfordton?

A. Every one.

Q. What kind of service do you give in that territory?

A. From Charlotte to Lincolnton we have got two trucks a day both ways. From Charlotte to Shelby, we have got five, to Rutherfordton, three.

Q. Have you seen any demand for additional service in that territory?

A. No, sir.

Q. Is your company in position to meet any such demand if such arose?

A. Yes, sir. We always have extra trucks available.

Mr. Watkins. That is all.

[fol. 1091] Cross examination.

By Mr. Abeles:

Q. Mr. Fredrickson, you do not operate between Rutherfordton and Monroe, do you?

A. No, no further east than from Rutherfordton to Charlotte.

Q. Not even Rutherfordton and Monroe?

A. Yes, we do operate from Rutherfordton.

Q. I beg your pardon I meant from Charlotte to Monroe?

A. No.

Q. Do you transport through traffic carried partly by your company and partly by rail?

A. No, sir. A little bit by transfer with Railway Express at Rutherfordton, northwest.

Q. Not freight.

A. No, going west.

Q. When you stated that there was no demand for additional service in the territory in which you operate you were speaking exclusively of the type of service you rendered, were you not?

A. Yes, sir.

Q. You know nothing of course about the possible demand for additional less carload shipment partly by rail and partly by motor carrier?

A. No.

Mr. Abeles: That is all.

Redirect examination.

[fol. 1092] By Mr. Watkins:

Q. Do you interchange with the express company?

A. No, we pay them their charges and charge the local rate from Rutherfordton to Chimney Rock or Lake Lure.

Q. And you interchange freight with other truck lines on through rates between all points in the eastern Seaboard?

A. Yes, sir.

Q. You interchange interstate, too?

A. Yes, sir.

(Witness excused.)

W. W. RAPER was sworn and testified as follows:

Direct examination.

By Mr. Watkins:

Q. Mr. Raper, with what company are you connected?

A. Lewis and Holmes Motor Freight Corporation.

Q. How long has that company been in operation?

A. It had been in operation since 1931.

Q. In what territory do you serve?

A. We serve directly the Piedmont area between Burlington, Greensboro, Winston, High Point, Charlotte, Greenville, and into Atlanta. We serve that route or any routes in that territory. We have a route that goes by U. S. 29, to Greenville; and we take what we term the mountain road that goes down from Chicora and Gainesville into Atlanta. Then we go up U. S. 29 direct. It takes in Hen-
[fol. 1093] dersonville, Hartsville, Roystown to Atlanta. Then route No. 3 is served from High Point, via Charlotte to Rock Hill, Columbia, Batesburg, into Augusta and then to Athens and Atlanta. Then we have a route that serves from High Point into Rockingham, Florence, Darlington, Kingstree, Monks Corner, into Charleston covering Pee Dee Section of South Carolina.

Q. Does your operation come into U. S. Highway 1 at Hamlet?

A. No, it comes into Highway 1, I think, it comes in at Rockingham, Cheraw and down through Columbia.

Q. Through McKee and Camden into Columbia?

A. That's right.

Q. Do you also serve Hartsville, Darlington, Florence, and Sumter?

A. All those. Practically all the Pee Dee section. We do not get over to Marion, Mullins, Conway, and Myrtle Beach. We don't serve that territory directly. We do serve it in connection with the New South Express Lines.

Q. And you interchange with other truck lines handling traffic generally over the Atlantic Seaboard?

A. Yes, sir.

Q. And in the territory which you serve have you seen any demand for additional service?

A. For additional service, no, sir.

Q. Is your company in position to meet any demand for [fol. 1094] additional service?

A. Yes, sir.

Mr. Watkins: I think that is all.

Cross examination.

By Mr. Abeles:

Q. When you were speaking of additional service, Mr. Raper, you refer, I presume, only to service entirely by the truck?

A. That is all we are supposed to know about.

Q. That is all you do know about?

A. I wouldn't say that.

Q. Do you know anything about transportation of less carload shipments by rail and partly by Motor Carrier?

A. Yes.

Q. What do you know about that?

A. Well, if you will go back to the tariffs there are certain rates published from certain points to certain forwarding points that does not carry the regular LCL rate, less truck load rate.

Q. Are you speaking of truck carriers or rail?

A. Truck carriers to be shipped by rail.

Q. I don't understand that.

A. All right, I'll make a direct illustration. There is in the south, commodity tariffs rates published from North Wilkesboro to High Point, 20¢ per hundred to be shipped to Lincoln, Nebraska, Chicago, New York, and Texas points, [fol. 1095] by the Acme Transfer and Storage Company and rates published with the Acme Transfer and Storage Company, Universal Carloading and Distributing Company, The Overland Transportation Company, the Southwestern Carloading Company, National Carloading Company. That is about that I'm familiar with.

Q. Now, do those shipments to which you refer move from points of origin to points of destination on one bill of lading?

A. On one bill of lading partly with some lines, yes, sir.

Q. Does your company participate in those movements?

A. We participate not in those movements. No, sir, not that I made direct reference to.

Q. That is what I'm speaking of. Now, do you know whether the truck lines that do participate in those movements issue a single bill of lading upon which the entire movement takes place?

A. Yes, sir.

Q. From point of origin to point of destination?

A. Yes, sir.

Q. Is that a through truck rail rate?

A. To make it specific, from Cleveland, Ohio, to Charlotte, North Carolina, we handle on a freight bill of lading, issued by the truck.

Q. Issued by the Universal Carloading and Distributing Company over to Baltimore, the Preston Truck Company direct to Charlotte, delivered on the Universal Carloading bill?

[fol. 1096] A. Not by railroad. Not to Charlotte but from Cleveland railroad to Baltimore.

Q. Not on railroad bill of lading?

A. Not on railroad bill of lading, certainly not.

Q. Mr. Raper, have you heard the testimony in any of these cases sufficiently to familiarize yourself with what the applicants here are proposing to do?

A. No, sir. I have not. I have been out of town. I got in this morning about two o'clock and they got me out of bed this morning. That was the first I knew about it.

Q. You can't say whether or not there is demand for the-r service of the character proposed in these applications by the shippers of less carload freight by rail?

A. I would say that there is no demand other than a few specific points.

Q. Then you do know what the railroad applicants are proposing here?

A. Generally, yes, sir. They are proposing, if I may clarify my opinion, from Richmond on U. S. highway, through to Columbia, South Carolina, probably Charleston, South Carolina.

Q. By truck?

A. By Seaboard truck, the express truck. The truck lines which they propose, I understand that you filed an application from Richmond, if I get it, by U. S. right straight down through Columbia; and probably going to [fol. 1097] Savannah. I believe it goes as far south as Estelle, South Carolina.

Q. Do you know how they propose to use those truck services to which you have referred?

A. To compete with the truck services that are now on the road.

Q. Do you know whether we propose to carry traffic through Richmond to Estelle, let us say?

A. Certainly.

Q. Entirely by truck?

A. No, sir. I don't know that.

Q. You don't know just how we propose to use this truck service?

A. No, sir.

Mr. Abeles: That is all.

Mr. Watkins: You are not aware of any limitations in these territories?

The Witness: I shouldn't think it would be restricted.

The Chairman: Mr. Raper, using that same routing that you referred to out of Cleveland, Baltimore, to Charlotte, North Carolina, do I understand the rates over a combination rail truck routed like that, are, any given class of commodity cheaper than by rail?

The Witness: For any? I don't quite understand you, Mr. Self.

[fol. 1098] The Chairman: For instance stuff out of Cleveland going to Charlotte that came by rail to Baltimore then from Baltimore to Charlotte by truck is the rates on that combination, on that routing, cheaper than it would be on the same class of commodity by all rail?

The Witness: I interpret that it would carry the same rate. The only reason why we get the business is because of service.

The Chairman: That is all.

By Mr. Abeles:

Q. You think that service is better?

A. You asked me what I think, yes.

Q. Than all rail service?

A. I just don't care to answer.

Q. You don't know?

A. I have my opinion.

Q. I'm asking for your opinion?

A. I imagine it would be much better.

Q. All right. If the evidence in this case showed that the Seaboard Air Line by utilizing the truck service which they are proposing to establish can improve the service performed on less carload shipments made by their patrons, do you think——

A. Their patrons?

Q. The railroad patrons.

A. You mean the Seaboard patron or all railroad patrons?

[fol. 1099] Q. Seaboard. I'm talking only about the Seaboard. Do you think they should be permitted the opportunity of improving that service in that way?

A. I agree with the Government on that. I don't think they ought to be permitted to do it.

Q. What?

A. With the ICC.

Mr. Abeles: I thought that is all we were trying to decide in this case. That is all, Mr. Raper.

(Witness excused.)

H. B. Koonce was sworn and testified as follows:

Direct examination.

By Mr. Watkins:

Q. Mr. Koonce, with what company are you connected?

A. Atlantic States Motor Lines, Incorporated.

Q. When did that company begin operations?

A. Well, under that name last November. But its predecessor, in 1932.

Q. You have just recently changed the name of it?

A. Yes.

Q. But the operation has been in existence since 1932?

A. Yes.

Q. And application under the grandfather clause has been filed?

[fol. 1100] A. Yes.

Q. I believe there has been a proposed report on your application?

A. Yes.

Q. What territory do you operate in?

A. From High Point to New York, From High Point to Atlanta, and into Asheville, North Carolina, and around through Lynchburg to Roanoke, Virginia.

Q. Do you interchange traffic with other truck lines?

A. Yes.

Q. Now, do you give any service on U. S. Highway No. 1?

A. Yes.

Q. Between what points on U. S. Highway 1, do you serve?

A. Our service comes down U. S. Highway No. 1, all the way into Columbia, and into Augusta, and then we leave U. S. 1, right below Augusta and go into Atlanta over No. 78.

Q. Then you operate over U. S. Highway 1, between Richmond and Columbia?

A. That's right.

Q. And do you serve intermediate points?

A. Yes.

Q. Now, do you operate west of Charlotte on State Route 27A, and State Route 150?

A. Yes, sir.

Q. Do you give service to Shelby and Lincolnton?

[fol. 1101] A. Yes, sir.

Q. I show you proposed schedules attached to application No. 86,687, Sub. 6, and ask you if you serve all the points shown on that schedule?

A. Yes.

Q. I show you a proposed schedule attached to application 86,687, Sub. 1, and ask you if you serve those points shown on that schedule?

A. Yes.

Q. In the territory that you serve have you seen any demand for additional service?

A. No, I have not.

Q. Do you compete with the railroads for traffic?

A. Yes, sir.

Q. You also compete with express companies?

A. Yes, sir.

Q. Forwarding companies?

A. Yes, sir.

Q. All operating in this area?

A. Yes, sir.

Mr. Watkins: That is all.

Cross-examination.

By Mr. Abeles:

Q. Mr. Koonce, you don't operate between Charlotte and Monroe, do you?

A. Charlotte and Monroe, yes. We have a line of trucks that serve all this territory.

[fol. 1102] Q. Do you operate over the highway, paralleling the Seaboard Air Line between Charlotte and Monroe?

A. Yes, sir.

Q. Highway No. 74?

A. Yes.

Q. Do you serve all intermediate stations on that rail route?

A. Yes, sir.

Q. Mr. Koonce, when you referred or when you stated that there was no demand for additional traffic or additional service over the routes which you traverse, you were speaking of the type of service which is rendered by your company?

A. Yes.

Q. You know nothing about whether there is or is not a demand by shippers of less carload freight for coordinated service, the authority for which the applicants are seeking here?

A. No, sir.

Mr. Abeles: That is all.

Mr. Watkins: That is all for the protestants.

(Witness excused.)

The Chairman: It has been agreed by counsel in the cases MC-86687, Subs. 2, 4, 5, and 6, that briefs would be filed on or before July the 12th, and that one brief will be filed for all cases with the understanding that if and

when it comes to be heard before section 5, Division 5 of the [fols. 1103-1104] Interstate Commerce Commission that each case may be argued separately. I'm taking the responsibility of conferring with the Commissioner in South Carolina, a member of Joint Board Number 2, with reference to permitting the same procedure in Docket MC 86687, Sub. 3; and Sub. 1, and Docket MC 86687, before Joint Board 177, and in Sub. 7, before Joint Board No. 7, for the purpose of consolidating briefs in all of these proceedings.

The Chairman: If there is nothing else, we will now adjourn.

(Whereupon at 12:25 p. m., June 16, 1937, the hearing closed.)

[fol. 1105] BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. MC 86687, Sub. No. 9

In the Matter of The Application of SEABOARD AIR LINE RAILWAY CO. (Legh R. Powell, Jr., and Henry W. Anderson, Receivers), a Corporation, of S. A. L. Railway Bldg., Norfolk, Virginia, for a Certificate of Public Convenience and Necessity, Form BMC 8, Authorizing Extension of Operations as a Common Carrier by Motor Vehicle in the Transportation of Commodities Generally, in Interstate Commerce, in the State of Florida, Between Jacksonville and Live Oak, Florida.

Docket No. MC 86687, Sub. No. 10

In the Matter of The Application of SEABOARD AIR LINE RAILWAY CO. (Legh R. Powell, Jr., and Henry W. Anderson, Receivers), a Corporation, of S. A. L. Railway Bldg., Norfolk, Virginia, for a Certificate of Public Convenience and Necessity, Form BMC 8, Authorizing Extension of Operations as a Common Carrier by Motor Vehicle in the Transportation of Commodities Generally, in Interstate Commerce, in the State of Florida Between Live Oak and River Junction, Florida.

Tallahassee, Florida,
October 19, 1937,
At 10 o'clock A. M.

Before: Joint Board No. 205

Present: Honorable Eugene S. Matthews, of the Florida Public Service Commission

Richard Yardley, Examiner, Interstate Commerce Commission

APPEARANCES:

Charles T. Abeles and W. T. Oven, Seaboard Air Line Railway Building, Norfolk, Virginia, appearing for the applicants.

[fol. 1106] Stanton Walker, Jacksonville, Florida, appearing for Acme Freight Lines, Great Southern Trucking Company, Central Truck Lines, K & L Transportation Company, Southern Motor Carriers Rate Conference, Cooper Truck Lines, Blue's Truck Line, Holstien and Son, Goodall Brothers Truck Line.

Leo P. Kitchen and Dan R. Schwartz, 302 Atlantic National Bank Building, Jacksonville, Florida, appearing for L & L Freight Lines, Inc., of Miami, Florida, and R. C. Motor Lines, Inc., of Jacksonville, Florida, interveners.

J. A. Bliss, Box 90, Jacksonville, Florida, appearing for St. John's River Line Company and Tamiami Trail Tours, Inc., interveners.

H. C. Roland, Lake City, Florida, appearing for Union Bus Company.

[fols. 1107-1108] PROCEEDINGS

Chairman Matthews: The Interstate Commerce Commission has set for hearing at this time and place docket number MC 86687, Sub. No. 9, in the matter of the application of the Seaboard Air Line Railway Company (Legh R. Powell, Jr., and Henry W. Anderson, Receivers), a corporation, of S. A. L. Railway Bldg., Norfolk, Virginia, for a certificate of public convenience and necessity, Form BMC 8, authorizing extension of operations as a common

carrier by motor vehicle in the transportation of commodities generally, in interstate commerce, in the State of Florida, between Jacksonville and Live Oak, Florida.

The Commission has also set for hearing at this time and place docket MC 86687, Sub. No. 10, in the matter of the application of Seaboard Air Line Railway Company (Legh R. Powell, Junior, and Henry W. Anderson, Receivers), a corporation, of Seaboard Air Line Railway Building, Norfolk, Virginia, for a certificate of public convenience and necessity Form BMC 8, authorizing extension of operations as a common carrier by motor vehicle in the transportation of commodities generally, in interstate commerce, in the State of Florida, between Live Oak and River Junction, Florida.

Who appears for the applicants?

Mr. Abeles: Charles T. Abeles and W. J. Oven.

Chairman Matthews: Who appears for protestants?

[fol. 1109] Mr. Walker: Stanton Walker, appearing for—Mr. Chairman, are these cases consolidated for the purpose of the hearing?

Chairman Matthews: Yes, they will be consolidated for the purpose of the hearing.

Mr. Walker: Stanton Walker, appearing for Acme Freight Lines, Great Southern Trucking Company, Central Truck Lines, K & L Transportation Company, Southern Motor Carriers Rate Conference, Cooper Truck Lines, Blue's Truck Lines, Holstein and Son, Goodall Brothers Truck Line.

Mr. Bliss: J. A. Bliss, Jacksonville, Florida, appearing for St. John's River Line Company and Tamiami Trail Tours, Incorporated.

Examiner Yardley: Mr. Bliss, are you appearing as an attorney in both of these cases, or are you appearing as an official of the company in one case and as an attorney in the other case?

Mr. Bliss: Since I signed the petition I presume I am acting as an attorney in both cases, or as a licensed practitioner, and not appearing separately for either party.

Chairman Matthews: Are there any other appearances?

Mr. Roland: H. C. Roland, appearing for the Union Bus Company. We have no written petition of intervention to submit at this time.

Examiner Yardley: Will you file one?

[fol. 1110] Mr. Roland: If it is required in these cases I will file one later today.

Examiner Yardley: You don't know what your position is at this time?

Mr. Roland: No sir.

Mr. Walker: Mr. Chairman, I discussed these cases with Mr. Roland and the president of his company. He intends to protest certain things, and should have filed a petition and will get one up in order to file it after the noon recess.

Chairman Matthews: It will be understood on the record that these cases are consolidated for hearing.

Examiner Yardley: Has everybody appearing here been admitted as an attorney practicing before the Commission.

(All those appearing stated that they had been admitted to the bar of the Commission.)

Mr. Abeles: Mr. Chairman, before action is taken on the petition for intervention, I would like to make this statement: There are some dozen or more petitions by various truck lines which state in general terms that the petitioner is interested in the subject matter of this proceeding. I assume, and I think it is fair to assume that many of the companies seeking to intervene in this proceeding have the locus of their operations far removed from the routes involved in these applications. It is of course necessary at this stage of the proceeding for us to determine whether [fol. 1111] or not the petitioners or any of them other than those operating along the routes applied for have such interest as to warrant their intervention under the rules of the Interstate Commerce Commission, and I should like to file objections to the acceptance of these petitions, and any order permitting the interventions which are sought, unless and until the interest of the petitioners is shown as of record. I have had experience before with wholesale petitions for intervention by parties, who, as the case developed, have shown that they have not even the remotest interest in the case. At the same time they have been allowed to cross-examine witnesses with resulting delay in the proceeding, confusing the issues, and I should like to request Mr. Walker at this time, if he can to state for the edification of the board and the information of counsel for the applicant just what interest each of these petitioners whom he is representing may have in these cases, and

I make a similar request upon counsel of other intervening petitioners.

Mr. Walker: Mr. Chairman, I might state to Mr. Abeles that if he cares to read the petitions for intervention he will see allegations of interest. It is true that a number of these truck lines do not operate over the same route for which the applications are made. However the Interstate Commerce Commission, as Mr. Yardley doubtless knows, and also Mr. Matthews, has recognized a general [fol. 1112] interest. For instance, this Southern Motor Carriers Rate Conference is an organization not for profit, and does not operate truck lines at all, and yet the Interstate Commerce Commission, in the case of Philip M. Barzene, which was decided on May 13, 1937, states that the Middle Atlantic States Motor Carriers could and were permitted to testify. That case will be found in 2 MCC 47.

There is another case in 1 MCC — I do not recall the style of the case just now, but where that direct question came up on another conference application, and they were permitted to take part in the case. I can supply you with the authority on that possibly when I return home, but this to my mind is sufficient evidence, and it is the latest expression on the subject. It was not even contested, but they were allowed to appear, not only they, but also a State carrier.

Mr. Abeles: Mr. Chairman, I wish to make a statement now for the record that I have no objection to the intervention by the Southern Motor Carriers Rate Conference, or any other organization representing carriers.

Chairman Matthews: They represent motor carriers in all this territory, do they not?

Mr. Walker: Just generally. They represent no one particularly, because there are none over a certain portion of this territory. For instance, over the territory from Live [fol. 1113] Oak to River Junction, there are no carriers operating that I know of.

Mr. Abeles: Mr. Walker, do you have a list of the members of the Southern Motor Carriers Rate Conference, or to put it differently, are the specific motor carriers who are intervening in this case members of the Motor Carriers Rate Conference?

Mr. Walker: Some are and some are not.

Mr. Abeles: I will state again that I have no objection to the intervention of the Southern Motor Carriers Rate Con-

ference, if the Board please. I think that is a convenient device, and it is followed by the railroads in this and other cases, that is, representation by an organized body. But what I am objecting to is the specific intervention of motor carriers, who, so far as I know, have not the remotest relationship to the operation proposed in these applications, and I think it is going too far afield, unless they can establish first and as a prerequisite of their right to intervene, the interest which they have in the proposals here under consideration.

Mr. Walker: In regard to the specific ones——

Chairman Matthews: Perhaps Mr. Abeles can specify the specific ones that he has in mind, and then Mr. Walker can make his explanation.

Mr. Abeles: I will be glad to do that. I do not want to [fol. 1114] delay this proceeding any more than is necessary, and I had hoped that we could get Mr. Walker to do that.

Mr. Walker: I can explain it in short. Each one of these motions set up, in the cases of the contract carriers mentioned, that they operate over the identical route. In the case of Acme, and K and L, Great Souther, Tamiami Trails and St. Johns River Line, they are directly interested by serving this route by interchange.

Mr. Abeles: Now, if the Chairman please, that is just the point. I am not at all sure that a connecting carrier is in a position to intervene in these proceedings. In fact I know that in analagous cases arising under paragraph 18 of Section One of the Interstate Commerce Act the Supreme Court has held, in the district of West Virginia case, the citation to which I have not before me, that the mere fact that a carrier connects with another carrier who has a direct interest in the proceeding does not warrant the intervention by the connecting carrier. I suppose that if all possible physical routes were considered, every sporadic movement of traffic, that if the position just stated by Mr. Walker is sound, that he could bring into this proceeding every motor carrier in the United States.

Examiner Yardley: Would they have an interest if the Seaboard Air Line were to be granted a certificate and should then refuse to participate in through rates with [fol. 1115] the various truck lines that do not parallel the proposed operations?

Mr. Abeles: I don't think so, I don't think they would have the interest which is required under the rules of the Commission. In other words, their case is represented by the competing carrier with which they connect.

Examiner Yardley: Suppose you make a motion to strike, and let Judge Matthews take it under advisement.

Mr. Abeles: Yes, I move that the petitions of intervention filed by all motor carriers not actually operating over the route for which authority is requested in this application, be stricken. I cannot state just which ones those are now, because the evidence has not developed it, that is, the physical operations, but I make that motion to be acted upon after it has been developed which carriers operate over these routes.

Chairman Matthews: It does not appear in the record yet that the petitions have been accepted, but we will consider that they have been accepted, and take the motion under consideration.

Mr. Walker: Mr. Chairman and Mr. Examiner, there are a few points that I would like to have in the record by way of argument on that. If no carrier can object to another carrier seeking a route unless he actually runs along the route, there has got to be a start somewhere in initiating service on that route. One man comes in and wants that [fol. 1116] route, and there may be others who want to operate over the same route, and they certainly have a right to come in if they operate in that general territory. They certainly have an interest in seeing what carrier gets in there. Some of them may want to get in there themselves, and some do not.

The second point is this: The Central Truck Line has been for many years a common carrier between Jacksonville and Live Oak, which is a route identical with that which is sought in request sub. No. 9. Central Truck Line interchanges with every truck line here protesting. We also know that the Seaboard Air Line Railway will not interchange with them, they will not do so on their rail line, and they probably will not do so on their truck line. Now, we have an interest, and a financial interest in seeing to it that no line is destroyed by competition with which line we might interchange over this route; so I contend that in our motions here for intervention we do show a direct interest when we say we have a direct interest by interchange.

Chairman Matthews: All right.

Mr. Bliss: Mr. Chairman, I would like to point out that the applicants are the receivers of the Seaboard Air Line Railway, who do operate other lines within the State of Florida, which do parallel the lines of the interveners. The applicant is proposing a novel arrangement which if granted without opposition might make it easier to install new lines [fol. 1117] which do directly compete with some of these interveners.

Chairman Matthews: All right, go ahead with the proceedings.

Mr. Walker: Mr. Chairman, at this time in the proceedings I have a motion to make, as follows: "Now comes the Central Truck Lines and moves the board for a continuance of this hearing on the grounds that it is common knowledge that labor unrest and actual strike conditions exist in the State of Florida and the State of Georgia, and that is is accordingly impossible for the Central Truck Lines, which is more vitally concerned than any other carrier here in protecting its own line from being paralleled, to produce its witnesses, or to be present at this inquiry. We think that this Board should take judicial notice of what is common knowledge, as has been said by our own Supreme Court and the Supreme Court of the United States, and continue and postpone this case until such time as labor conditions sufficiently improve to enable the truck interests who are directly interested to produce its witnesses here; and I would suggest a continuance for thirty days if that might be in order."

Mr. Abeles: If the board please, of course I object to that motion. While it is perhaps unfortunate that at the date of this hearing there are certain labor conditions obtaining at this time, but the applicants have gone to considerable trouble and expense and expenditure of time to obtain [fol. 1118] their own witnesses, who are busy men, and they come here at some sacrifice to testify. I cannot see from the statement made by Mr. Walker that the mere absence of employees who may be on strike should prejudice their case to any substantial degree, because I suppose their officials would be the witnesses who could best present their case. At any rate, I think the motion is intangible, and we should most seriously object to any postponement of the hearing at this time.

Mr. Walker: Mr. Chairman, I might say this to Mr. Abeles that I am perfectly willing to withdraw the motion for continuance if the Seaboard Air Line is willing to stipulate that the Central Truck Lines is an existing common carrier, both intrastate and interstate, between Jacksonville and Live Oak, and are ready, able and willing to meet the general needs of that territory in common carrier motor truck service. That is all that we would expect to prove by Mr. Allen. If they are willing to stipulate or admit that, I will not insist on the continuance.

Mr. Abeles: Of course I would not be willing to stipulate anything in regard to their ability or willingness to provide good service in this territory at all. I might be willing to stipulate that they are operating in this territory, provided we would have some showing of the service which they do perform; but in the absence of some such showing I would not be willing to stipulate anything.

[fol. 1119] Mr. Walker: Of course we can do that later on. I realize that this applicant has been to some expense in coming here, and we do not want to delay the hearing, but if you could stipulate what is a known fact, that they are operating under certain schedules, it might be helpful.

Mr. Abeles: Haven't you a witness here who can testify to what service they are performing?

Mr. Walker: I cannot show that by an official of the company. I have no official of the Central Truck Lines here. I can put on Mr. Bliss, who is an official of the St. Johns River Line Company, and he knows and can swear that the Central Truck Lines have service there, if there be no objection to it. He is not the best witness of course, but I have no witness of the Central Truck Lines here, because of the acute strike condition they could not leave Tampa to come to this hearing.

Mr. Abeles: I certainly have no disposition to take undue advantage of the existing conditions, and I am willing to accept Mr. Walker's statement at its face value, that the attendance of material witnesses has been prevented, and yet in protecting the interests of the applicant in this case I am still at a loss as to how to accommodate him. I would be quite willing to do that if possible. I simply want some statement from an authoritative source of what service the company which he represents is performing, and I must [fol. 1120] confess that I do not feel quite willing to accept

a statement of a witness from another company. I think you can understand my position on that.

Mr. Walker: Yes, I can understand your position, and I could put the Secretary of the Railroad Commission on the stand. The only difficulty I will have is to prove whether he is qualified under the Interstate Commerce Commission under the grandfather clause.

Chairman Matthews: The board will overrule the motion, and if necessary a further hearing can be had.

Mr. Walker: If I understand the ruling then, Your Honor, we would have the right to petition you for a further hearing in the future.

Mr. Abeles: In response to that action, Mr. Chairman, I would like to say on behalf of the applicant that we will most vigorously resist any further hearing in these cases, because the proceedings have already been considerably delayed through no fault of anyone, and in view of the congested docket of the Interstate Commerce Commission we don't know when we will be able to get action in these cases, which we are most anxious to have at the earliest possible moment, so I think it is only fair to state my position at the present time, and that is that we will oppose any further hearing of these cases.

Examiner Yardley: What do you mean by considerable [fol. 1121] delay? The application was filed on August seventh?

Mr. Abeles: I do not mean that the hearing has been delayed, but from our experience we know that the condition of the Commission's docket in these cases will impede the progress of the case through the Commission far more than in cases of other kinds.

Chairman Matthews: All right, you may proceed.

Mr. Walker: Come now the protestants and move (1) to dismiss this application or postpone the case until such time as a board may be appointed having jurisdiction of the case.

(2) That the present board, composed of one representative of the State of Florida does not under the Motor Carrier Act have jurisdiction to hear and determine the matter of interstate commerce involving necessarily transportation by and through one or more states.

(3) That application sub numbers 9 and 10 of this docket are merely two of some eight or ten coordinated applications throughout the Southern States brought by the Seaboard Air Line Railroad Company for motor carrier

freight service; that as such a board composed of representatives from each state, or in the event of more than three states being involved by an Examiner or special board; is the only board having proper jurisdiction of this case, and therefore any action by this board now sitting is illegal. [fol. 1122] I might say that that is no reflection on Major Matthews, for whom I have the highest esteem, but I am making that point, and I think it is a good one.

Chairman Matthews: The motion will be taken under advisement.

Mr. Abeles: I don't know whether the joint board wishes to hear from me on that subject or not.

Mr. Bliss: Mr. Chairman, the St. Johns River Line Company does not join in that motion.

Chairman Matthews: The ruling of the board is that we will take it under advisement until we have heard Mr. Abeles.

Mr. Abeles: I will,—I would like to ask Mr. Walker whether his motion is founded on the theory that the applicants are attempting to cover motor carrier service covering more that one state.

Mr. Walker: The motion speaks for itself.

Mr. Abeles: I am not entirely clear what the motion does speak for, so I am asking just what you mean by it, because I cannot follow it as you stated it, and my question is whether your motion is based upon the theory that in these cases we are attempting to set up continuous motor carrier operations in more than one state.

Mr. Walker: There are three grounds for the motion. My first ground is that by virtue of its being an interstate application covering these two routes in Florida, that makes [fol. 1123] it obvious that your haulage will cover more than one state.

Numbers two and three raise the point that you have something like ten or twelve motions for routes throughout the south, in Virginia, South Carolina, North Carolina, Tennessee and Alabama, and that they are all with the intention of establishing coordinated motor truck service throughout the entire south and paralleling your entire railroad.

Mr. Abeles: However you are not contending are you that through these applications in conjunction with other existing motor carrier services performed by the applicant,

that a continuous motor carrier service covering more than one state would be sought for.

Mr. Walker: I used the word "coordinated."

Mr. Abeles: But you are not contending that there is any continuity of motor carrier service which crosses the state boundary lines, are you?

Mr. Walker: I have not in this motion.

Mr. Abeles: Mr. Examiner, I will simply reply to the motion by stating that similar motions have been heretofore made in other proceedings in which your applicants are interested; that the question has been raised and submitted to the Commission in Docket MC 86687 sub numbers 1 to 7, and the question will presumably be decided in those proceedings. They are now before the joint board and a recommended report has not yet been made in those cases. [fol. 1124] Chairman Matthews: The board will take the motion under advisement.

Mr. Kitchens: Mr. Chairman, I arrived a little late, but I want to file a petition of intervention on behalf of the L. & L. Freight Lines, who have a substantial interest in these proposed operations, because they parallel them in many instances, and the L. & L. Motor Lines wish to operate into Jacksonville and connect with certain motor carriers into this section.

Mr. Abeles, may I ask a question of you?

Mr. Abeles: No, not yet. I would like to state to the board that the objection which I have interposed to the petitions of intervention heretofore offered applies to this petition of the L. & L. Freight Lines which I understand does operate between Live Oak and these points west of Live Oak to Marianna.

Mr. Kitchens: Mr. Abeles, may I ask you whether or not you are confining this application particularly the registration of certain routes obtained by legislative action, and not for public convenience and necessity for the State of Florida?

Mr. Abeles: I am going to make a statement to the board on that question.

Mr. Kitchens: It is relative to the motion which I have made. You distinctly brought that out from Mr. Walker. [fol. 1125] I wanted it clear in my mind, so I am concurring in Mr. Walker's motion and adding additional grounds.

Mr. Abeles: I am not sure that what I am about to say

is responsive to your question. At any rate, I would like to take this opportunity of informing the joint board that the proceedings before it now are applications for certificates covering new operations between Jacksonville and Live Oak, Florida, and between Live Oak and River Junction, Florida. In both cases we have filed also with the Commission application for registration of an operation conducted in state service. These applications for registration are on the theory that since the service involved in the applications is located wholly within the boundaries of a single state, and do not in any instance reach or cross state lines, that that provision of Section 206 of the Federal Motor Carrier Act which exempts from specific requirements operations wholly within a state, exempt the services for which authority is here sought, from certificate requirements. I might add that that question is also before the Commission in Docket MC 86687 and sub numbers 1 to 7, and will be presumably decided in those cases.

Examiner Yardley: Do I understand your position to be that in the event the Commission or the Joint Board should deny your application for a certificate, that you will then claim the right to operate over these routes by virtue of [fol. 1126] registration?

Mr. Abeles: Subject of course to the Commission's decision on that question, and the subsequent decision as to whether or not we felt there was sufficient doubt about it to litigate the Commission's decision. What our action would be in the event of an adverse ruling under the application for a certificate, and also under our contention that no certificate is required, I would hesitate to say at this time. Do I answer your question?

Examiner Yardley: Well, yes.

Mr. Abeles: I want to make my position clear.

Examiner Yardley: There is a question in my mind as to whether the applicant has subjected itself to some contradiction in its position—to some inconsistency growing out of the fact that it has filed this application with the interstate commerce commission.

Mr. Abeles: We have accompanied our application for certificate with the reservation that no certificate is required. If you have the docket there, Mr. Examiner, you will find that reservation in the application itself, pointing to the fact that we have concurrently filed a certificate for

registration, and that the application for a certificate is merely out of an abundance of caution in the event we are overruled in the certificate for registration.

Mr. Kitchens: May I inquire of learned counsel as to [fol. 1127] whether or not this — an extension of an operation, and if it is not an extension of an operation where will this interstate case be derived from inasmuch as the said applicant does not connect with or have joint or through rates and routes with any other common carrier truck lines.

I move at this time that the applicant be compelled to take a position, and to elect whether or not he is going to prove public convenience and necessity for a certificate, or attempt to prove public convenience and necessity for a certificate, or whether or not he is merely relying upon registration? I think this is a proper motion before this board at this time. We protestants would be backed up to the wall, so to speak, in trying to counteract the proof in support of the Seaboard Air Line's case if they were not forced to elect. It is very difficult, as the board knows, to try to rebut testimony from two different angles.

Mr. Abeles: If the chairman please, with all due deference to Mr. Kitchens, I think we are wasting time here because the only thing before this board is the application for a certificate under Section 206 of the Act. I have stated the position of the applicant to be that no certificate is required, but so far as the issues involved in this proceeding are concerned, on the merits of the case, they are confined to the application for a certificate, and the question of public convenience and necessity is necessarily involved in such a [fol. 1128] proceeding.

Chairman Matthews: The motion will be overruled.

Mr. Kitchens: May I concur in the motion made by counsel, Mr. Walker, for the intervening motor lines?

Chairman Matthews: Yes.

Mr. Walker: If the board pleases, now comes the protestants, and move to dismiss this application on the grounds that it affirmatively appears that the applicant is in the hands of a receiver, and it does not affirmatively appear from the application that there is any order of court authorizing these receivers to transmit this application.

Further, there is no showing that the Seaboard Air Line Railway has any authority under its charter to engage in

motor truck service. I might say that that is not an idle motion. As we all know, receivers are officers of the court, receivers cannot spend any money or expend any funds except by order of the court, nor can he enlarge the operation without an order of the court. The duty of a receiver is to get in the assets for the purpose of paying off indebtedness. It is only when he has an order of the court that he can go out and make any further investment, and until it affirmatively appears that there is an order of court authorizing this applicant to make this application, it is absolutely improperly made and in defiance of the law. If they have such an order and will submit it in due course, all right; otherwise I will renew my motion at some other [fol. 1129] time.

Mr. Abeles: Mr. Chairman, in brief reply to that motion I would like to say this: First of all we hold with regard to the charter power of the applicant that the Commission has no duty or power to investigate that. That is a matter for the courts to decide.

Secondly, with regard to the power of the receivers as such to conduct this motor carrier service, I think that the answer is identically the same. If they have no such power, then it is the function of the receivership court to object, and not the Commission or any of these protestants in this proceeding. However, I shall be very glad if the joint board, or the Examiner of the Commission feels otherwise, to produce a certified copy of the court order authorizing the receivers to engage in operations of this character.

Mr. Walker: Are you willing to submit a certified copy of the charter of your railroad?

Mr. Abeles: I would be very glad to do that except that I think that the charter of the present Seaboard Air Line Railway comprises some fifteen different underlying charters, and I believe to comply with your request would so encumber the record that it would only inject confusion.

Mr. Walker: I might say here that I cannot say what the practice is before these joint boards and the Interstate Commerce Commission. However, it has been the practice [fol. 1130] before the State Commission, as Major Matthews well knows, if any motor carrier applicant coming before this commission—he submits a certified copy of his charter. That is invariably done. Judge Oven has in fact

created that precedent. He has invariably demanded that a charter be produced to show what authority the motor carriers have. I have had it a dozen times. That has been the rule of the Commission, but I do not know what the rule of the Interstate Commerce Commission is, but when it is objected that the authority must be shown, he must produce it.

Mr. Kitchens: Mr. Chairman, I think—I might be mistaken—that on BMC form 8, which is the correct form for this application to be presented to this board, I think that such is the requirement of the application, that a certified copy of the charter be attached thereto, likewise a financial statement should be contained within the application. If that has not been complied with then I don't think this applicant is properly before this board, and at this time I wish to concur on behalf of the L. & L. Freight Lines, Inc., and the R. C. Motor Lines, Inc., in the motions heretofore made by Mr. Walker.

Further, I move this honorable commission that its said hearing be continued until such time as counsel for the railroad can produce from the federal courts in which the receivership rests, proof that it has from said court per-
[fol. 1131] mission to institute the filing of this application on the extension of the Seaboard Air Line Railway Company's route. I think a continuance should be granted at this time in order that the protestants may have opportunity to examine it.

Chairman Matthews: The board is going to overrule the motion for a continuance. I am rather inclined to think that you are raising questions here that haven't anything to do with it, but so far as the motion affects the validity of the application, we will take that part of it under advisement. We will overrule the motion for continuance.

(Discussion had off the record.)

Mr. Abeles: Will the board be prepared to rule on that motion prior to the termination of this hearing, because it is rather important?

Examiner Yardley: Are these same questions up in the other cases?

Mr. Abeles: No, the requirement of a charter right showing is not involved in those previous cases.

Mr. Kitchen: How about the authority from the federal court?

Mr. Abeles: No, that was not raised either. I can very readily and quickly supply that authority. There is a specific order of the court——

Examiner Yardley: You state that you do have it?

[fol. 1132] Mr. Abeles: I do, most emphatically.

Examiner Yardley: That may be filed within ten days.

Mr. Kitchen: If he supplies the certified copy of his charter, and his charter does not give him authority to run a truck line, I want to be in court objecting to it. Somewhere in the record there should be a certified copy of the order of the court and a certified copy of the charter. If he can supply that, and is willing to supply one of us on this side with a copy of it, that is all we ask.

Mr. Abeles: I object to a requirement that we furnish copies of the charter of the applicant, not because I have any apprehension as to what it would show, but because the Seaboard Air Line is a consolidated corporation with constituent companies dating away back one hundred year- or more, and the present charter of the consolidated company would comprise all of the charter powers of the predecessor corporation. Now, to supply this record with some fifteen or twenty charters from which the question of the charter power of the present corporation can only be derived by a searching exploration of every one of them, I think is an unreasonable request.

Chairman Matthews: Since Counsel for Applicant has stated that they have the authority from the federal court to engage in truck operation, the Board is going to overrule the motion for a continuance, and overrule the motion for a filing of a copy of the charter; but the board does rule [fol. 1133] that a copy of the authority from the federal court should be supplied for the record within ten days.

Examiner Yardley: With a copy to all parties.

Chairman Matthews: Yes.

Mr. Walker: Bear in mind, Mr. Chairman, that Mr. Abeles has stated that he did have authority from the court, but he has never yet stated that the charter of any of his fifteen consolidations ever gave him the right to run a truck line. We are entitled to that.

Mr. Abeles: I can state that.

Mr. Walker: But it is a legal opinion, even if you state it. I don't see why there should be any objection to giving us a copy of the charter, or an extract from the charter

showing that they have authority to operate a motor carrier service. The Act requires that they do that.

Mr. Abeles: I don't agree with you. Can you point out the provision of the Act which requires that.

Mr. Walker: I know it has been the custom to do it.

Mr. Abeles: It has never been required and it has never been done. I would be glad to do that except for the fact that I doubt whether we could find anything but basic record copies of every single charter that underlies the present Seaboard Railway System. I know that we have been asked for copies of those charters for other purposes. If it was simply a matter of convenience I would be glad to accom- [fol. 1134] modate Mr. Walker, but it is not that, it is a very difficult task, if not an impossible one, and in view of our position that the charter power of the applicant has nothing to do with these proceedings I will have to object to complying with that.

Mr. Walker: It is certainly ultra vires if you have no such power.

Chairman Matthews: The board has ruled.

Mr. Kitchen: I again move that the said application be dismissed, in that the said applications as heretofore filed by the applicant, and which is in possession of the Interstate Commerce Commission, the applicant has fully indicated and/or refused to comply with the questions as heretofore set out in Form BMC 8 in that it states "If applicant is a corporation furnish the following information".

Mr. Abeles: Where are you reading from?

Mr. Kitchen: I will show it to you, it will be much easier.

(Shown.)

The page you will see is blank. I also call attention that the applicant is not a corporation. For whom are these trustees or receivers acting?

Mr. Abeles: I don't want to prolong this discussion, Mr. Chairman, but the information to which Mr. Kitchen is pointing is with regard to corporate organizations, and the applicants here are receivers. Their authority to act as [fol. 1135] receivers has been filed in the application, and I think that that is the answer to the motion.

Mr. Kitchen: Surely counsel is not here for the purpose of stating that this application is not made for the benefit of the Seaboard Air Line Railway but made for Mr. Powell

and Mr. Anderson as individuals or receivers. If they are receivers, they are receivers for whom? A corporation, a railroad corporation, the Seaboard Air Line Railway and it is no more a privileged character in the United States than myself or counsel for the other protestants, any contract carrier, even a poor little truck man is entitled to that information.

Mr. Abeles: Are these not matters for argument on brief? And are we not delaying the proceeding unnecessarily by these discussions?

Chairman Matthews: The board will overrule the motion.

Mr. Abeles: We are ready to proceed. But, Mr. Chairman, I would like to ask the indulgence of counsel for the protestants to the extent of placing on the stand an operating witness who will describe the nature and scope of what we are proposing to do, and then to request the withholding of cross examination until certain other witnesses who have come here at some sacrifice have taken the stand and been cross-examined, so we can relieve them. Is that satisfactory?

Mr. Walker: I understand that you wish to have us with-[fol. 1136] hold any cross examination of your operating witness at the time he takes the stand?

Mr. Abeles: Until we have been able to place these local witnesses on the stand.

Mr. Walker: Why don't you put the local witnesses on first?

Mr. Abeles: Because I want to get into the record what we are proposing to do, and then to put the witnesses on the stand to testify whether they are in favor of it.

Mr. Kitchen: On behalf of the two clients which I represent I might say that usually we would be very glad to favor you, we are glad to favor you today, except that it would be my interpretation that such a witness would be perhaps a technical witness, and to submit the counsel for the protestants to waiting until after the local witnesses are heard, and to have to remember such testimony as was given by your first previous witness would be no doubt an injustice to expect us to remember such testimony for such a period of time.

Mr. Abeles: Mr. Kitchen and Mr. Walker, I have written copies of the testimony that will be adduced by our first witness.

Mr. Kitchen: Then there is no objection from me.

Mr. Walker: He will testify from a prepared statement?

Mr. Abeles: That is right.

[fol. 1137] Mr. Walker: And Mr. Bliss and we may have copies of that prepared statement?

Mr. Abeles: Yes, I have about three extra copies here.

Mr. Bliss: No objection.

Mr. Abeles: I will call Mr. Parsons.

T. W. Parsons was sworn and testified as follows:

Direct examination.

By Mr. Abeles:

Q. Mr. Parsons, please state your name, residence and occupation.

A. T. W. Parsons, Jacksonville, Florida, Assistant General Manager, Southern District, Seaboard Air Line Railway.

Q. How long have you occupied that position?

A. Five years.

Q. How long have you been with the Seaboard in various capacities?

A. With the exception of a short duration since 1903. Superintendent in Florida from 1912 to 1916; general superintendent from 1924 to 1931.

Q. Over what territory do you have supervision?

A. My supervision extends from just north of Jacksonville, including all of Florida and the line from Jacksonville to River Junction also from Tallahassee to Bainbridge.

Q. Then you are thoroughly familiar with operating conditions in the territory covered by the Jacksonville-River Junction Line?

[fol. 1138] A. Yes sir.

Q. Will you now describe the services which we are proposing to establish in these proceedings?

A. We are proposing to establish station to station interstate truck service between Jacksonville and Live Oak, and Live Oak to River Junction. We already have a truck operation on these same routes handling intrastate traffic only.

Q. Have we received a certificate for such intrastate operation from the Florida Railroad Commission?

A. Yes.

Q. How long has that intrastate service been in operation?

A. Since July 6, 1937.

Q. Do I understand that if the interstate authority which we are here seeking is granted that we will use these vehicles now operating in intrastate service to transport the interstate traffic?

A. Yes.

Q. I hand you a blueprint map and ask you to state whether or not that blueprint correctly shows this operation?

A. Yes, it is shown in red on the map.

Q. Does the route which will be traversed by the proposed service substantially parallel the line of the Seaboard Air Line Railway between Jacksonville and River Junction?

A. Yes sir, it shows the proposed line of operation from Jacksonville to River Junction except where the pencil lines [fol. 1139] indicate a digression into and out of Aucilla, and also from Monticello to Drifton and back out to Road No. 1.

Mr. Abele: Mr. Chairman, we offer this map in evidence as applicant's exhibit No. 1.

(Exhibit 1, Witness Parsons, received in evidence.)

Q. Do we propose to serve any station not already reached by the railroad?

A. No. Our service contemplates only the transportation between rail stations of LCL shipments offered to the railway or its rail connection and will not serve any point not reached by the railroad.

Q. Then I understand that our proposed service will be purely auxiliary or supplementary to our rail service?

A. That is correct.

Q. What is the approximate one way mileage of the two routes?

A. The highway mileage between Jacksonville and Live Oak is approximately 85 miles, and between Live Oak and River Junction is approximately 142 miles.

Q. Will you state now generally the purpose which we expect to accomplish through the inauguration of these services?

A. Primarily the purpose of the proposed services is to improve the handling of interstate LCL shipments along

the proposed route. Incidentally this service is now provided for shippers and receivers of intrastate traffic and if [fol. 1140] interstate authority is granted, interstate and intrastate shipments will have equal service. At the present time the intrastate movements are being given superior handling to some of the smaller stations.

Q. What other benefits do you expect to result from these services?

A. We expect to advance the movement of our through trains and give the receivers and shippers of carload freight carried on these trains earlier deliveries. We will accomplish certain savings in fuel by eliminating train stops and reduce the number of cars required for train service and will advance the delivery at River Junction of LCL freight consigned to points on the Appalachicola Northern Railroad.

Q. Will you now state the freight train service in operation over this route?

A. Train No. 83, a through train which however, works local between Live Oak and River Junction, is scheduled to leave Jacksonville at eight p. m. daily, and is scheduled to arrive at River Junction at eight a. m. the following morning.

No. 85 is scheduled to leave Jacksonville at 9:10 a. m. daily, and is scheduled to arrive at Tallahassee at 4:30 p.m. daily, leaves the line between Jacksonville and River Junction at Tallahassee at 5:10 p. m. for Montgomery via Bainbridge, and is scheduled to arrive at Bainbridge at 7:30 p.m.

A local train leaves Jacksonville about 8:10 p. m. This is [fol. 1141] operated as an extra train and does local work setting out and picking up between Jacksonville and Live Oak. It arrives at Live Oak about two a. m. making connection with the LOP&G Railroad at that point, turns immediately leaving Live Oak about 2:30 a. m. and returns to Jacksonville, arriving there about eight a. m.

A through train, No. 82, making the Louisville and Nashville Railroad connection at River Junction is scheduled to leave River Junction at ten a. m. and is scheduled to arrive at Jacksonville at 9:30 p. m. the same day.

No. 84 from Montgomery via Bainbridge is scheduled to leave Bainbridge at 6:15 p. m. arriving at Tallahassee at 7:45 p. m. leaves Tallahassee at 8:15 p. m. and is scheduled to arrive at Jacksonville at 2:30 a. m. the following morning.

Q. Will you state the schedules of the proposed truck service?

A. As I have already stated, this service is now in operation for the handling of intrastate shipments. The schedules are as follows:

Leave Jacksonville 7:00 p. m. arrive Live Oak 11:30 p. m.; leave Live Oak on return movement 12:00 midnight, arrive Jacksonville four a. m.

Leave Live Oak 11:45 p. m., arrive River Junction 6:15 a. m., makes connection with the Appalachicola Northern Railroad which leaves River Junction for Port St. Joe and [fol. 1142] intermediate points in Gadsden, Liberty and Franklin counties at 7:10 a. m. The truck leaves River Junction 11:00 a. m. arrives Live Oak five p. m. One truck is operated daily except Sunday in both directions over each of these routes.

Q. Having stated what the proposed service will be and for what purpose it is to be established, will you now explain how the improvements will be accomplished. For that purpose I wish you would take as an example a specific movement of LCL freight consigned to this territory from an interstate origin and explain how it now moves and how it will move when the interstate truck device is in operation.

A. For instance, an interstate shipment moving through Jacksonville to Monticello, originating out of the state coming to Jacksonville this morning, would go forward on train No. 83, which is scheduled to leave Jacksonville at eight p. m, and will be set out at Drifton at 3:50 a. m. to be picked up by train No. 82 at 2:40 p. m. that afternoon reaching Monticello about 3:30 p. m.

With the proposed truck service this shipment would leave Jacksonville at seven p. m. by truck, and arrive at Monticello at 3:05 a. m. the following morning, advancing the shipment almost 24 hours.

This is also true of interstate LCL westbound movements through Jacksonville for Havana.

Train No. 83 leaving Jacksonville at eight p. m. tonight [fol. 1143] arriving Tallahassee the following morning, is unloaded at Tallahassee, loaded into a local car working between Tallahassee and Bainbridge and does not leave Bainbridge until four a. m., arriving at Havana at five a. m. the second morning out of Jacksonville, whereas if we could handle it by truck, it would leave Jacksonville at seven p. m.

the same day of arrival at Jacksonville and arrive at Havana at 5:10 a. m. the first morning out of Jacksonville, or a twenty-four hour saving.

Q. Is there any substantial business moving outbound from Havana, the service on which would be improved by the use of the proposed truck service?

A. There is less carload interstate freight moving east bound through Jacksonville that is now handled by local freight from Havana at two a. m., arriving Tallahassee at three a. m., leaving Tallahassee on train No. 82 at 1:10 p. m., arriving Jacksonville at 9:30 p. m. It would move on the proposed truck service leaving Havana at 12:20 p. m., arriving Jacksonville at four a. m. next morning, thus advancing the shipment one day.

Q. Can you give an example of the improvement in the service of Less Carload shipments moving into this territory from points beyond River Junction?

A. There is a through car loaded with merchandise at [fol. 1144] New Orleans and one car loaded with merchandise from Pensacola daily except Sunday, which arrives at River Junction at eight a. m. which connects with train No. 82 scheduled to leave River Junction at ten a. m. These cars contain less-carload merchandise which break bulk at Quincy.

These cars contain less carload merchandise for points between River Junction and Tallahassee as well as stations between Tallahassee and Jacksonville and also for points on the Bainbridge line.

A shipment which is consigned, for example, to Havana, now leaves River Junction at ten a. m. on train No. 82 and is carried to Tallahassee where it is transferred to the local train operating from Tallahassee and Bainbridge, leaving Tallahassee at about four a. m. and arriving at Havana around five a. m. the morning following its receipt at River Junction. By use of the truck, this shipment can leave River Junction on No. 82 at ten a. m. and be unloaded at Quincy where it will be picked up by truck at 11:45 a. m. arriving Havana at 12:20 p. m. the same day, thereby saving almost twenty-four hours in delivery.

Q. How about a shipment consigned to a point near Jacksonville, such as Lake City? Would there by any improvement in the handling of less carload shipments coming

from points beyond River Junction consigned to that station?

A. A less carload shipment for Lake City, received in [fol. 1145] these cars, would as just explained, be set off at Tallahassee by train 82, picked up by train No. 84 and carried through to Jacksonville, arriving Jacksonville 2:30 a. m. the following morning. It would then be returned to Lake City in local freight leving Jacksonville about eight p. m. the following night, arriving Lake City around one a. m. the second morning following its receipt at River Junction. By use of the truck the shipment for Lake City could be unloaded at Tallahassee on arrival of train No. 82, picked up by the truck at one p. m., reaching Lake City at one a. m. the morning following its receipt at River Junction, or a saving of one day.

Q. Between what points on this route would this same improvement of service be effected?

A. All local points between Tallahassee and Jacksonville except Monticello.

Q. Why do you except Monticello?

A. Train No. 82 is operated via Monticello and would handle such freight direct to that point.

Q. Why can this direct service be provided for Monticello by train No. 82 and not for the other local stations on this route?

A. Train No. 82 carries the important through freight and perishables for Jacksonville proper, and through connections at Baldwin, for points north and south. We can- [fol. 1146] not use Train No. 82 for local service between Tallahassee and Jacksonville and still make these connections and avoid violation of the sixteen hour law.

Q. Will the handling of less carload business by the proposed truck service benefit carload shipments moving over this route?

A. Yes. For example, our local train between Jacksonville and Live Oak now leaves Jacksonville about 8:10 p. m., and leaves Live Oak on the return trip at 2:30 a. m. and arrives at Jacksonville about eight a. m., which is usually too late to be weighed and catch a switch engine for delivery to industries at Jacksonville — the early morning. By relieving this local train of the handling of less carload business its arrival at Jacksonville will be advanced to permit earlier placement of cars on industrial tracks along the Belt Line at Jacksonville, which move-

ments require as much as a 12 to 15 mile switching in a congested area.

Q. In connection with the present movement of this local business, to what extent are deliveries to Jacksonville industries now delayed would you say—how late do they arrive there at times?

A. Well, carload shipments for Jacksonville arriving there as late as eight o'clock are invariably placed that afternoon. Cars arriving at five o'clock or earlier are placed that same morning.

[fol. 1147] Q. And I understand that by advancing the schedules of these local trains morning deliveries will be assured?

A: Yes sir.

Q. Will any improvement in service be effected through the establishment of the proposed truck service in the delivery of less carload shipments originating at such points as Birmingham, Montgomery and Atlanta?

A. Birmingham, Montgomery and Atlanta are jobbing centers of importance to the territory to be served by the proposed truck operation. In addition to which a large volume of merchandise freight from western cities, such as Chicago and St. Louis, moves through Birmingham and Atlanta destined to this territory, such freight being loaded at Birmingham and Atlanta in the package cars consigned to Tallahassee.

In order to provide better service for this traffic we at present operate through daily package cars from these origins over connections and the Seaboard to Tallahassee, breaking bulk at Tallahassee. At present, these shipments consigned to points between Tallahassee and Live Oak are forwarded from Tallahassee by train No. 82 leaving Tallahassee at 1:10 p. m., arriving at Live Oak at 5:10 p. m. and are then picked up by No. 83 at one a.m. and delivered to destination points early in the morning. By the use of the proposed truck service, these shipments would be picked up at Tallahassee at 12:50 p. m. of the afternoon [fol. 1148] following their arrival and would be delivered to local points between Tallahassee and Live Oak during the same afternoon instead of the following morning by train.

Q. Will any savings in expenses be effected by the proposed truck service?

A. Yes, it will reduce the number of cars required for the handling of less carload merchandise on this line with an estimated annual saving of approximately $2,000.00, and in addition, will save per diem payments or earn per diem on other lines to an amount of approximately $1,200.00 per year, or a total saving of between $3,000.00 and $3,500.00.

Q. Will there be any additional cost incurred in operating the existing truck service for interstate transportation?

A. No. There is no difference in the cost of operating a truck carrying intrastate traffic alone and both interstate and intrastate, and since we already operate the trucks for the transportation of intrastate traffic there will be no increase in cost for handling interstate traffic in these trucks.

Mr. Abèles: Mr. Chairman, that is all for this witness at the present time.

(Witness temporarily excused.)

(Short recess.)

Mr. Abeles: I will call Mr. Earp.

[fol. 1149] CURTIS EARP was sworn and testified as follows:

Direct examination.

By Mr. Abeles:

Q. Mr. Earp, state your name, residence and occupation.

A. My name is Curtis Earp. My home is in Greenville, Florida, and I am at present engaged in the business of general merchandising.

Q. At Greenville, Florida?

A. Yes, sir.

Q. Mr. Earp, will you state for the record what benefit you will enjoy if the interstate motor service which is proposed in this case is established?

Mr. Kitchen: I would like to ask one qualifying question. Does he know what service is offered? You have not brought that out.

Mr. Abeles: You have heard the testimony of Mr. Parsons, have you not?

The Witness: Yes, sir.

Q. Then you are familiar with what is proposed in this case?

A. Yes, sir.

Q. Now, will you proceed to explain what benefits that proposed service will be to you?

A. Well I will get quicker deliveries, and in most cases [fol. 1150] we try to have in our goods for weekend sales.

Q. Then a 24 hour advance in delivery is of importance to your business, is it?

A. Yes, sir, it is.

Q. Now, from your experience in the general merchandising business, Mr. Earp, can you state whether that is generally true of merchants who are engaged in that business?

A. Yes, sir.

Q. Can you explain a little more fully why it is necessary for you to receive your goods as promptly as possible.

A. Well it is necessary because of the fact that in the business of general merchandising there is quite a bit of competition, and we try to get our goods in and get the goods marked up ready for weekend sales, because in a small town like the town I live in, Friday and Saturday are really the business days.

Q. Then you feel, that if the improved service which has already been described is furnished to you it will be a distinct advantage to you in the conduct of your business?

A. I think so, yes, sir.

Mr. Abeles: That is all.

Chairman Matthews: You may cross examine.

Cross-examination.

By Mr. Kitchen:

Q. Mr. Earp, you live at Greenville, Florida?

[fol. 1151] A. Yes, sir.

Q. And you are in business there?

A. Yes, sir.

Q. In the mercantile business?

A. Yes, sir.

Q. Just what comprises that mercantile business? I am rather hazy on what goes on in a little town?

A. Well, I handle groceries, dry goods, and also have a market.

Q. It is almost what you term a general store, is it not?

A. Yes, sir.

Q. Now, how do you get your goods? Do you get them from Atlanta, Georgia?

A. I don't trade in Atlanta, Georgia.

Q. You don't trade in Atlanta?

A. No, sir.

Q. Well, who do you get your merchandise from, say in Columbia, South Carolina?

Mr. Abeles: Mr. Chairman, just a moment. I think the form of these questions is entirely improper. If Mr. Kitchen wants to know where he gets his goods from let him ask where he gets them, and not suggest that he gets them from some specific place.

Mr. Kitchen: That is what I want to find out. I have reasons for these specific questions.

[fol. 1152] Mr. Abeles: Ask him where he gets his goods from.

Q. From whom do you get your goods in Jacksonville?

A. J. H. Churchwell wholesale house, Cumberland and Liberty Mills.

Q. That is in Jacksonville?

A. Yes, sir.

Q. You are speaking of Jacksonville, Florida?

A. Yes, sir.

Q. And that is in Jacksonville?

A. Yes, sir.

Q. Do you get anything from Savannah, Georgia?

A. No, sir, I have goods coming in from Charleston, South Carolina.

Q. From Charleston?

A. Yes, sir.

Q. How do those goods come from Charleston?

A. By rail.

Q. What railroad do you use?

A. They come by the Seaboard Air Line Railway from Charleston.

Q. And they are brought into Jacksonville?

A. Yes, sir.

Q. And from Jacksonville they are transported by rail are they not?

A. Yes, sir.

[fol. 1153] Q. That is to Greenville, Florida?

A. Yes, sir.

Q. Do you consider the service now offered by the Seaboard Air Line as being inadequate to your needs?

A. Well, the service is as good, I suppose, as it is possible for a railroad to offer, where it is delivered by rail, but I would say that if they could put on a faster service, that is what we want.

Q. But, if this application for the establishment of truck service was denied, would you be forced to go out of business?

A. No, sir.

Q. It would not affect your business in any form, would it?

A. Well——

Q. You are operating now?

A. Yes, sir.

Q. And successfully too?

A. Yes, I would say so.

Q. But it would not affect you either way?

A. Well, I think it would be better, and it would help the business if I could get a quicker delivery service, because I find there are lots of shipments that I order and sometimes I have to wait one, two or three days for them, when if I had the shipments I could probably put over sales for them.

[fol. 1154] Q. What kind of shipments are you talking of, perishable goods?

A. Dry goods.

Q. Oh, dry goods?

A. Yes, sir.

Q. How long have you been in business down there?

A. Four years.

Q. Four years?

A. Yes, sir.

Q. And during that four years time you have been able to get your merchandise by the Seaboard Air Line, haven't you?

A. Yes, I have been able to get my goods by the Seaboard Air Line.

Q. And you are not complaining to this Commission here that the service is so utterly rotten by the Seaboard Air Line that you desire other service, is that correct?

A. I am not complaining at all; I am only stating that I would like a quicker delivery service if it is possible.

Q. You would like it?

A. Yes, sir.

Q. Have you any particular preference as to this service being given by the Seaboard Air Line as above any other truck service?

A. A faster delivery service is all that I am interested in.

[fol. 1155] Q. If another truck line was to ask for this service would you desire their service just as much as you would the service of the Seaboard Air Line?

A. Well, if the other line served us and showed as much courtesy, I can't see that there would be any difference. I have always been treated very nice by the Seaboard Air Line agents.

Q. Is your business located on the Seaboard property?

A. I would say it is 75 yards from the depot.

Q. You are friendly with the station man there, are you not?

A. Yes, sir.

Q. And you know quite a few of the employees?

A. Yes, sir.

Q. And they trade at your store?

A. Just a few of them. The Seaboard Air Line Station agent does not, but some of the section force, one or two of them trade in my store, but I don't get near all of the trade.

Q. You say that your merchandise that your are particularly talking about now originates at Charleston, South Carolina—is that correct?

A. Some of it, yes, sir.

Q. I mean what we are talking of now, these dry goods?

A. Yes, sir.

[fol. 1156] Q. Do you know whether or not the Seaboard Air Line operates a truck line from Charleston, South Carolina to Jacksonville, Florida?

A. I do not.

Q. You don't know?

A. No, sir.

Q. Then if I were to tell you that they do not, would you believe it.

Mr. Abeles: Mr. Chairman, I don't see the materiality of these questions. I think we are getting pretty far afield.

Mr. Kitchen: I don't think so. If I don't connect it up you have the prerogative of moving to strike it.

Mr. Abeles: I object to the question.

Chairman Matthews: The objection will be sustained.

Q. Mr. Earp, if your merchandise is transported from Charleston, South Carolina to Jacksonville by rail, which is a greater distance than from Jacksonville to Tallahassee, what advantage is it to you to have the last leg of the journey transported by a truck operated by the Seaboard Air Line?

A. Well, it is my opinion that at least one day would be saved, I think I could receive the goods at least one day earlier.

Q. What schedules do you have at the present time on the railroad coming in from Jacksonville?

A. Coming in from Jacksonville I believe we have what [fol. 1157] you call overnight service.

Q. What you call an overnight service?

A. I think so. In other words, I think that the goods are shipped out probably in the afternoon, and the next morning the merchandise is unloaded at Greenville.

Q. Do you know what schedules—I am asking you, do you know the present schedule that the railroad runs into Greenville?

A. I don't know.

Q. You live right next to the depot, or your store is right next to the depot?

A. Yes, sir.

Q. What schedules, if any, are to be offered to you by the Seaboard Air Line operating motor vehicles over the highway?

A. I haven't had a schedule offered to me. I have heard it said that we would get earlier delivery, and probably a number of hours earlier delivery.

Q. Well, if you get overnight delivery by train, and you would get earlier delivery by truck, and it gets there about three or four o'clock in the morning, tell us whether that is any advantage to you?

A. Shipments coming out of Jacksonville, there really couldn't be any improvement on shipments coming out of Jacksonville.

[fol. 1158] Q. There couldn't be any improvement over the present service?

A. No, not on shipments coming out of Jacksonville. That really would not help me any, but shipments coming from South Carolina it would help me, and I also buy some goods from Montgomery, Alabama. I think it would help me quite a bit in receiving shipments earlier.

Q. Do you know whether or not the schedules that are offered by the motor vehicles of the Seaboard Air Line are so coordinated with the schedules of the rail line from Montgomery—by the way, does the Seaboard Air Line operate from Montgomery?

A. I suppose it does.

Q. You don't know positively?

A. Yes, sir, I do know positively that it does operate from Montgomery.

Q. Now, to get back to the original question, do you know whether or not the schedules are so coordinated that a shipment that you might order in South Carolina and brought to Jacksonville, that these schedules are so coordinated that it constitutes a through shipment? In other words, will there be any delay in Jacksonville, or any more delay in Jacksonville than there is now in making connections with the train?

Mr. Abeles: This witness just stated that he was not relying on any improvement in service moving to Jacksonville.

Mr. Kitchen: I am asking him if it originated in Charles-[fol. 1159] ton, and I am asking if there is any coordination of schedules that will improve the service from Charleston to Greenville.

Mr. Abeles: He said no, he has already answered that question.

Mr. Kitchen: That is what I wanted to know.

Q. It is of no advantage to you, is it?

A. On shipments originating at Jacksonville, no.

Q. Well, outside of Jacksonville—We will go back and ask you about shipments originating in Charleston. Show me where it will be of any advantage, what coordination of schedules is there there that might facilitate faster movement of freight, what coordination of schedules is there there?

A. Well, I should think that it would—a shipment originating——

Q. Not what you think, what you know. We want to know what you ask by these schedules, you are coming here and asking for this, and there must be a reason. You admit that it is of no advantage to your business, I want to see if it will be of advantage to the public. We want to help you that much.

A. If by putting in this trucking system shipments can be delivered to me a day or two earlier, it will be of advantage.

Q. If they come, how will they——

[fol. 1160] Mr. Abeles: Now, again, I have not interposed any objection, but this witness was put on the stand for the sole purpose of confining his testimony to the statement that an advance in service of twenty-four hours would be an advantage to him in his business. He is not qualified to determine whether or not service would be provided. That has been testified to by the preceding witness. I think the cross-examination has gone far beyond the scope of the direct examination and I object to any further inquiry along that line. If he knows, all right, but if he does not know—and he has just stated that he does not—I think the cross-examination should stop.

Mr. Kitchen: Evidently this is an application for a certificate of public necessity and convenience, and on cross-examination you well know, and I have seen you exercise the privilege that we have very wide latitude, and we are exercising that latitude.

Chairman Matthews: The witness has stated that he does not know what the schedules are, and you hardly need to pursue that subject further.

By Chairman Matthews:

Q. State whether or not you know what the schedules are.

A. I don't know what the schedules are, I don't know anything about the schedules. The only thing is, I understand it would give a quicker earlier delivery of goods, and if it does that will help me.

[fol. 1161] By Mr. Kitchen:

Q. Would you go out of business if you don't get it?

A. I hope not.

Q. You don't think you would?

A. I don't think I would.

Q. And you have been in business and operating under the present existing schedule?

A. I have.

Q. And you have found them satisfactory?

A. Well, there are lots of things that are satisfactory, but if a thing can be improved on I say improve on it.

Mr. Kitchen: That is all.

Mr. Walker: I have no questions.

Chairman Matthews: Let me caution you before we start on further cross examination, to try not to cover the same ground that has been gone over by one interest. Let us confine ourself- to new matter on further cross examination.

By Mr. Bliss:

Q. Mr. Earp, isn't there another railroad at Greenville, Florida?

A. There is.

Q. What is it?

A. The South Georgia Railroad.

Q. Do you use that railroad also?

A. No, sir.

Q. You do not use that railroad at all?

[fol. 1162] A. We do not. Well, occasionally a shipment will come in over the South Georgia Railroad, but it is very seldom.

Q. Do you use the L&L Freight Lines?

A. No sir, we do not.

Q. Do you know what their service is?

A. I don't, I have heard of it.

Q. You haven't made any inquiries as to their truck service?

A. I have not.

Q. So you would not be able to state whether or not it would fulfill your needs as well as the proposed service?

A. I know nothing whatsoever about the service of the L & L Freight Line.

Q. What is the name that you do business under, your store I mean?

A. C. D. Earp Grocery and Dry Goods Store.

Mr. Bliss: That is all.

Chairman Matthews: Are there any further questions of the witness?

(Witness excused.)

Mr. Abeles: I will call Mr. MacGowan.

K. A. MacGowan was sworn and testified as follows:

Direct examination.

By Mr. Abeles:

Q. Mr. MacGowan, please state your name, residence and occupation.

[fol. 1163] A. My name is K. A. MacGowan, Quincy, Florida, vice president of the Florida Company, manufacturers of Fuller's Earth.

Q. Will you state your interest in this proceeding, Mr. McGowan, or rather the interest of your firm?

A. Well, it is very simple. If our deliveries—Of course I am talking about less than carload freight now—our deliveries can be expedited it will be a decided advantage for us.

Q. Is promptness of delivery of some importance to you in the conduct of your business?

A. It is.

By Examiner Yardley:

Q. What commodities do you receive?

A. I have in mind particularly mill supplies, welding supplies, and bags, and things of that kind.

Q. Where are they shipped from?

A. We buy in Montgomery, Birmingham, Pensacola, and Jacksonville, and bags come out of New Orleans.

By Mr. Abeles:

Q. Have you found that there has been any delay in the receipt of these inbound shipments moving wholly by rail from the origin points you have mentioned?

A. I would explain a little bit before I answer that question if it is all right with the Examiner. Take for instance

shipments of burlap bags, our business is not as brisk as it once was, we work from hand to mouth. We have orders coming in for shipments export which have to be shipped in special printed bags, and very frequently we have to call [fol. 1164] on our friends of the Seaboard Air Line and the Louisville and Nashville to expedite shipments of bags. The shipments break at River Junction, and I believe with this proposed service we could save twelve to fourteen hours on that item alone, and that is a decided factor. We have only a few days in which to work to make a steamer at a certain time, and it would be a decided advantage to us.

Q. Would a delay of twenty-four hours, or an advance in the receipt of the shipment of twenty-four hours sometimes make a difference in catching a steamer and not catching it?

A. Yes sir, I would say that without hesitation.

By Examiner Yardley:

Q. Do you ship out in less than carloads?

A. The outgoing shipments are almost always in carloads. It is the incoming freight that we are interested in.

Q. You receive your incoming shipments in less than carload lots?

A. Yes sir.

Q. And you concentrate the shipments into carloads?

A. By the time—we might get a shipment of 500 or 800 bags, and when they are filled with our product they constitute a carload of Fuller's earth going out.

By Mr. Abeles:

Q. Is your machinery usually shipped in in less than carload lots also?

A. Repair parts, not machinery.

[fol. 1165] Q. But you do receive some machinery parts in less than carload lots?

A. Oh, yes.

Mr. Abeles: That is all.

Chairman Matthews: You may cross examine.

Cross-examination.

By Mr. Walker:

Q. Mr. MacGowan, didn't you testify before the Florida Railroad Commission in February, 1935, as a witness for

this same Seaboard Air Line that truck service was neither a convenience nor a necessity to your business?

A. Mr. Walker, you might embarrass me on that. I want to qualify before I answer yes or no, if that is allowed.

Chairman Matthews: Go ahead.

Q. I will ask you whether or not you testified under oath before the Florida Railroad Commission in February, 1935, that truck service was neither convenient nor necessary to your business?

Mr. Abeles: Mr. Chairman, I have no particular objection to his answering that question, except that it is designed, to develop an admission against interest. Is that what you have in mind?

Mr. Walker: Yes sir.

Mr. Abeles: Of course the proceedings in which that testimony was given or offered was an application I believe by an independent truck line to operate motor carrier serv-[fol. 1166] ice in this territory——

Mr. Walker: Just a minute. Let us not have you testifying, Mr. Abeles. I have asked him whether or not he did not come before the Florida Railroad Commission in February, 1935, and swear that truck service was neither convenient nor necessary to his business. He can say whether he did or not.

Mr. Abeles: All right, but I want to protest the admissibility of that testimony.

Examiner Yardley: Have you the title of that case, Mr. Walker?

Mr. Walker: That was a consolidated case of the Union Bus Company, H. T. Pace, and Acme Freight Line, Inc.

Mr. Abeles: May I ask, Mr. Walker, whether that was an application for intrastate certificate authorizing intrastate service between Jacksonville and Live Oak or any other point on the route involved in these cases?

Mr. Walker: I will answer that the Union Bus Company application and the Pace application were for both intra and interstate. The Acme application was intrastate only.

Mr. Abeles: And it was for authority to render a purely trucking service?

Mr. Walker: To operate a common carrier motor truck service between Jacksonville, Florida and Dothan, Alabama, in one instance passing through Quincy and in another instance passing through Thomasville.

[fol. 1167] Mr. Abeles: I just wanted to find out what it was about. That is all. I object to these questions, Mr. Chairman, because we are proposing here a type of service which is entirely different from the operation for which authority was sought in those proceedings. In other words, the cases were of an entirely different nature, and under the rules of evidence unless the issues before the tribunal are substantially the same, then any statement made in one proceeding is not admissible as an element of impeachment of testimony in the other. That is my position. I just don't want to confuse the issues.

Mr. Walker: There is no confusion of issues here. The question propounded by Mr. Abeles to the witness went to the adequacy of the existing service, whether truck service was helpful to his business or not, not the Seaboard Air Lines truck service. I am asking him if he didn't come here as a witness for this same Seaboard Air Line and swear on the witness stand that truck service of any kind was neither convenient nor necessary to his business. That is the question.

Chairman Matthews: The board will overrule the objection and let the witness answer the question in his own way.

A. Mr. Commissioner, I would not be able to answer that question correctly yes or no*t*. I do remember that hearing sometime back. I don't remember the date, and I don't remember the exact words of my testimony but I imagine [fol. 1168] my testimony was that at that time we were receiving adequate service from the railroads.

Q. Do you now consider that you are receiving adequate service from the railroads?

A. I think the service can be improved.

Q. Is it adequate for your needs?

A. No, I would say that at frequent times a speeding up of twelve hours would be of very great advantage to us.

Q. You ship out in carload lots only, don't you?

A. Yes—Well, I will qualify that—We have a few less than carload shipments, but they are a very small part of our business.

Q. It is mostly a carload business?

A. Yes sir.

Q. That would not be handled by truck anyway?

A. We have had to ship carloads at times by trucks in order to meet boats in Panama City.

Q. But the vast majority of your shipments are in carload lots outbound?

A. Yes sir.

Q. In answer to a question propounded to you by attorney for the Seaboard Air Line, Judge Oven, at this former hearing did you answer this question: "Have you found the rail and express service adequate and satisfactory?", and did you answer, "Yes sir, it is quite satisfactory to us"?

[fol. 1169] A. You would be able to say more accurately than I would in that case. I don't remember except that the general testimony I made was I was receiving adequate service.

Q. That was rail and express?

A. Yes.

Q. Now, the few less than carload shipments that you do ship out you ship by express, don't you?

A. No, very few.

Q. Do you ship less than carload by rail also?

A. By rail or truck.

Q. In the absence of truck service you would use express or rail, wouldn't you, in less than carload shipments?

A. Yes sir.

Mr. Abeles: Are you speaking of outbound shipments, now, Mr. Walker?

Mr. Walker: Yes sir.

Q. Now, your incoming shipments, are they mostly less than carload or carload shipments?

A. From a tonnage basis we have more carload tonnage than less than carload, but from the importance of continuing our plant in operation, one shipment of a piece of machinery that weighs ten pounds may hold the whole plant up.

Q. In answer to a question propounded by Judge Oven, attorney for the Seaboard Air Line, in that former proceeding, as follows: "State whether or not the granting of a [fol. 1170] certificate of convenience and necessity to one of these truck lines would be reasonably convenient and necessary in your business," did you or did you not answer this: "It is not necessary for us, and I don't think it would be a convenience. We are a mile north of town, and have no reason to feel that they would send trucks out there to make

deliveries to us if we ordered shipments made over the truck lines." Is that substantially your statement?

A. You are reading from the record. I imagine that is what I said. But, as I said before, I have no recollection of my exact words. My testimony was that at that time our service was adequate.

Q. Why the change of heart? You are in the same business as you were in 1935, are you not?

A. We had more business then than we have now. There is not so much pressure to get the shipments out to meet a boat.

Q. But you didn't need a truck line in 1935, did you?

A. I thought not at that time.

Q. I asked you why the change of heart?

A. Well, we had more business in 1935 than we have now——

Mr. Abeles: Mr. Chairman, I don't think that is a fair question.

Mr. Walker: Oh yes it is.

Mr. Abeles: I don't think so at all, and I object to it. To begin with, he has answered the question.

[fol. 1171] Mr. Walker: I will withdraw the question and put it another way.

Q. Why did you testify on behalf of the Seaboard Air Line that truck service was neither convenient nor necessary in your business when you testified in February, 1935, and why do you now feel that it is convenient and necessary in your business?

Mr. Abeles: He has already answered that question twice, Mr. Examiner.

Mr. Walker: If he will answer it that is all I want. I want him to explain it.

Mr. Abeles: He stated that expedition of delivery was more important to him at the present time than it was then.

The Witness: Mr. Commissioner, I don't see that I have much to answer there. It is more important now that we get our orders out promptly after we get them. We run now two or three days or four days a week, as we have orders. In 1935 we were running with more regularity.

Q. Then, when your business is regular, a truck line is not a convenience to you, it is only convenient when it is irregular.

A. When business is good, Mr. Walker—— Have you ever been in the manufacturing business?

Q. No.

A. When you have orders coming in you feel safer. We are almost in the position that we were in after the war, [fol. 1172] when cancellation rolled in, and we would wire back that we could not accept cancellations, that the customer would have to wait his turn. Now, if we get an order we ship it. It is more important now for us to get the orders out on schedule than it was in 1935 and prior to that time.

Q. Do you consider this irregular condition of your business to be a temporary condition, Mr. MacGowan?

A. I hope so.

Q. It is not a permanent condition?

A. I hope not.

Q. When your business gets back to normal, as you feel it will, there will be no necessity or convenience to have a truck line for your business, will there?

A. I will say this, that it would not be any harm to have competing lines, we would get better service on both of them.

Q. But there would be no necessity for it in your business?

A. There would be less reason for it then than there is under present conditions.

Mr. Walker: That is all.

By Mr. Bliss:

Q. Didn't I hear you state that if you had competing lines you would get better service out of both of them.

A. This present case is an application for an interstate certificate, so I don't know that my answer was very pertinent.

Q. Is it your understanding that there would be more [fol. 1173] competition in your area if this petition is granted?

A. We have the L and L Line coming in, from which we receive very little freight, and with whom we have had no very substantial contact.

Q. Is it your understanding that this will increase competition?

A. I imagine it will increase competition. We have one line coming in there now, and the railroad will come in with another.

Q. Proportionately how much has your tonnage dropped since 1935?

A. Without definite figures at hand I would say forty percent, maybe fifty percent.

Q. The tonnage now is sixty percent?

A. Fifty to sixty percent. Those are rough guesses. I would not want to have to substantiate that.

Q. Your tonnage now is fifty to sixty percent of what it was in 1935, is that what you wish to say?

A. I don't wish to say anything, but you are asking me about something. I think that is a fairly reasonable figure that I am giving you there. It has dropped from 1935 to about fifty or sixty percent of what it was.

Mr. Bliss: That is all.

By Mr. Kitchen:

Q. Mr. MacGowan, did you testify sometime ago, in the latter part of September or in the early part of October, [fol. 1174] 1936, at a hearing at the old postoffice building here in this town, in which the L&L Freight Line had an application for interstate—accenting the word "interstate" for the interstate carriage—did you testify at that time on behalf of the Seaboard Air Line?

A. I don't recall testifying except here at the Railroad Commission.

Q. Now, you testified to the necessity of moving less than carload freight by truck—did you say to Panama City?

A. Just let me correct that question or get you to correct it. You say I testified to the necessity of moving less than carload freight by truck. My testimony was as to the desirability of it.

Q. Then it is no necessity to you, it is desirable.

A. I think it would be an advantage.

Q. But not a necessity.

Mr. Abeles: Well now, that depends upon a definition of the word. I think we should confine this testimony to the facts, Mr. Chairman. Now, we are getting into an argument about definitions, and I think it should be stopped. I object to it.

Mr. Kitchen: Mr. Abele, I think that you entered into this.

Q. Now, did you state in your previous testimony here this morning that you had used truck service to trans-[fol. 1175] port less carload, truckload lots from Quincy to Panama City?

A. No, I did not.

Q. To what point did you testify that you used them?

A. I didn't testify to any point less than truckload on Fuller's earth.

Q. Did you testify as to carload lots?

A. I did.

Q. And to what city?

A. From Quincy to Panama City.

Q. Now, if this truck service is given to this applicant by the Interstate Commerce Commission will you get that service into Panama City by this applicant?

Mr. Abeles: Just a minute, Mr. Chairman. I think by the series of questions that he is asking that interveners have confused the issues in this case.

Mr. Kitchen: You have not coached your witness properly.

Mr. Abeles: The witness did not testify as to the use of this proposed service on outbound shipments at all, and I think that should be understood in the cross-examination.

Mr. Kitchen: If it please the chairman, we certainly have a wide enough latitude to find out whether this man knows what he is testifying to, or if he is testifying from memory what someone else has told him.

Mr. Abeles: Mr. Chairman, I resent that implication, and I want to state for the record that I have talked to [fol. 1176] this witness about thirty seconds before this hearing, and I never saw him before.

Mr. Kitchin: I am not speaking of what you have done, Mr. Abeles.

Mr. Abeles: Let us confine the cross-examination to the direct.

(Discussion off the record.)

Mr. Kitchin: I want to see if he knows what this applicant is asking for.

The Witness: Would you like me to explain my understanding of it.

Q. Yes sir.

A. It is my understanding that they are applying for a certificate for interstate truck service to parallel the railroad, and from station to station.

Q. The railroad from where, from what station to what station?

A. That would be indifferent to me so long as they had truck service that came into our town from River Junction and Tallahassee, and connecting with Montgomery and the Birmingham districts, and the points we draw our supplies and equipment from.

Q. Do you know whether or not this service as proposed will enable you to ship by its trucks from Quincy to Panama City?

[fol. 1177] A. I doubt very much that it would, because they have no line to parallel down there. I don't see that that affects us.

Q. Then it would be no advantage there, is that right?

A. Our advantage would be on connecting freight.

Q. Where do you get your bags from?

A. New Orleans.

Q. How do they come out of New Orleans?

A. By freight over the Louisville and Nashville Railroad and the Seaboard Air Line Railway.

Q. The Louisville and Nashville to River Junction?

A. Yes sir.

Q. And from River Junction to Quincy by the Seaboard Air Line, is that correct?

A. That is right.

Q. What is the distance from New Orleans to Quincy?

A. Approximately 400 miles.

Q. Approximately 400 miles from New Orleans to Quincy, you say?

A. Yes sir.

Q. What is the distance from River Junction to Quincy?

A. Twenty miles.

Q. Then these shipments being transported we will say 380 miles by rail, and as you have previously alleged inadequate service, then you expect that with 20 miles of the [fol. 1178] shipment by truck lines, will compensate for the rotten service——

Mr. Abeles: Mr. Chairman, I object to the form of the question, and ask that it be stricken from the record and counsel reproved for the form in which he put the question.

Mr. Kitchin: I withdraw the question and restate it.

Q. You stated I believe that it is 400 miles from New Orleans, and that it is 20 miles from River Junction to Quincy.

A. Yes sir.

Q. Do you expect truck service from River Junction to Quincy to compensate any loss of time that might have occurred by virtue of the fact that the shipment was made by rail?

A. Yes, as frequently happens, the Louisville and Nashville coming into River Junction fails to make connection with the local freight coming east, that shipment is delayed in River Junction 24 hours, and if the truck service that they hope to establish picks it up at a later hour than that freight train leaves, then it will be a decided advantage and save us 24 hours on the delivery of these bags in that twenty miles, due to no fault of the Seaboard, but due to delay in the freight reaching River Junction.

Q. All right, that is very nice, but I will ask you if the L&L Truck Lines, which operates between that point and Quincy, were to operate at an hour later than that at which the Louisville and Nashville train arrives, would you use the L&L freight service by truck?

[fol. 1179] A. If the L&L Freight service were party to that freight rate so it would be delivered without additional cost, that would be just fine.

Q. And that is what brings up something. Do you know whether or not this line which is going to be instituted, or which is proposed to be instituted, by virtue of this application, do you know whether or not you are going to be able to have not only coordinated service by truck and rail, but if through or joint rates and through routes by truck and rail?

A. I don't know, but I would be very much surprised if I did not.

Q. Are you not surprised that it does not exist today between the Louisville and Nashville Railroad and the L&L Freight Lines? Why should any preference be given to this truck line?

Mr. Abeles: Mr. Chairman, I think he is arguing. Do you mind my objecting? Is he sticking to facts in this cross-examination? I object to that last question.

Q. Then you don't know whether or not that condition is going to exist, do you?

A. Which condition are you talking about?

Q. In regard to the establishment of through joint routes and through joint rates between the so-called truck line operated by the proposed application and the various rail- [fol. 1180] roads to which it might connect. Do you know whether that condition would exist?

A. I don't know, but I anticipate that it will.

Mr. Abeles: I might suggest that counsel read the application and he will find out.

Mr. Kitchin: I might suggest that if you had complied with the law you would have sent us a notice of this hearing.

Mr. Abeles: That is up to the Interstate Commerce Commission and not to us.

Chairman Matthews: Let us not argue, gentlemen.

Q. Do you know whether or not the L&L Freight Lines or any other truck line can get truck service from the railroads?

A. I would not know that.

Mr. Kitchin: That is all.

Redirect examination.

By Mr. Abeles:

Q. Mr. MacGowan, when you testified in this proceeding to which your attention has been directed on cross-examination, can you state whether or not any better service was offered to you by the proposed truck lines then seeking authority than was already rendered by rail?

A. No.

Q. If no better service was offered than you were receiving obviously there would be no advantage to you?

A. There would have been no advantage in it.

Q. Do you recall whether or not there was any proposal [fol. 1181] in those cases, or in that case, to afford through transportation between points of origin from which you received shipments to destination at your plant, either all truck, or either part rail and part truck?

A. I don't know.

Q. So far as you know there was no direct service offered to you by the proposals in those cases from the points where you received shipments?

A. It certainly was not made evident by the truck lines to me at that time, I had no such information.

Q. With regard to the improvement of delivery of less than carload shipments, is it a fair statement that the service which exists under certain conditions may be adequate at one time, and under other conditions inadequate at another time?

Mr. Walker: Mr. Abeles, don't lead the witness, putting words into his mouth.

Mr. Abeles: I withdraw the question. That is all.

Recross-examination.

By Mr. Kitchin:

Q. Do you get merchandise out of Atlanta, Georgia?

A. Very little.

Q. And the little you do get, how do you get it?

A. By rail.

Q. Do you know that the truck service is many hours [fol. 1182] quicker than rail into Quincy from Atlanta?

A. I am not surprised if it is out of Atlanta, because of the fact the connections coming down are not good.

Q. Then if speed is essential to your business, why don't you use the truck service from Atlanta?

A. If I were buying in Atlanta it would be worth while, but we buy very little in Atlanta.

Q. Is there any reason why you should not give that little to the truck lines? You want speed, that is the only reason for your coming before this Commission?

A. I don't remember in the past several years that we bought anything except locomotives.

Q. Am I to understand that you are here at this hearing solely actuated by the motive——

Mr. Abeles: Just a minute. I object to the question about the motive of the witness in appearing at this hearing.

Chairman Matthews: Objection sustained.

Mr. Kitchin: I think we have a right to inquire as to the interest the witness may have in this affair, whether he is biased or prejudiced. I think that is permissible.

Chairman Matthews: The objection has been sustained.

Mr. Kitchin: That is all.

Mr. Walker: Counsel for the protestants for the purpose of further impeaching the veracity of this witness desire now to identify for the record and submit for the informa-

[fol. 1183] tion of the board the testimony of the witness, MacGowan, contained on pages 2242 to 2246 inclusive of the official record of the Florida Railroad Commission contained on notice docket 490, 269 and 233.

Mr. Abeles: Is that being offered for physical incorporation in this record, or incorporation by reference?

Mr. Walker: If you prefer that I make a copy of that and let you have it, I will do so, but I would rather have the reporter copy it in. It is short.

Mr. Abeles: I do not understand that the Commission's rules permit the incorporation of a record before any body except the Interstate Commerce Commission.

Mr. Walker: You are right, we will have to do it by reference.

Mr. Abeles: The reason I am objecting is that I do not know what that record contains, and I will have to have an opportunity to examine it because this witness must leave now, and I must examine the record before re-direct examination on the basis of this testimony there. I have no idea what it contains, so I don't think it is a proper offer. He has examined him and can examine him on anything that that record contains.

Examiner Yardley: Would we save time to have that copied and certified and taken into the record?

Mr. Abeles: If it is a brief excerpt I would rather have it done that way.

[fol. 1184] (Discussion off the record.)

Chairman Matthews: We will now take a recess until 2:15 p. m.

(Whereupon at 12:45 p. m., a recess was taken until 2:15 p. m.

AFTERNOON SESSION

2:15 P. M.

Chairman Matthews: We are ready to proceed.

Mr. Roland: Mr. Chairman, at this time I submit the petition of the Union Bus Company asking leave to intervene.

Chairman Matthews: It may be filed.

Examiner Yardley: Did we agree as to this excerpt from this other testimony, whether it is agreeable to receive that or not?

Mr. Abeles: It is not agreeable, Mr. Examiner. I have excepted as to its admissibility. I understand that certified copies of it will be made, I understand that the objections are overruled, and that copies will be furnished, is that correct?

Chairman Matthews: Yes.

Mr. Walker: I couldn't copy it at the noon recess, because I left it with Mr. Abeles for him to examine at the time of adjournment. As soon as I get it back I will have it copied.

Examiner Yardley: File a certified copy within ten days.

[fol. 1185] Mr. Walker: All right sir.

Chairman Matthews: Call your next witness.

Mr. Abeles: Mr. Seeley, will you take the stand.

T. H. Seeley was sworn and testified as follows:

Direct examination.

By Mr. Abeles:

Q. Mr. Seeley, please state your name, residence and occupation.

A. T. H. Seeley, residence Havana, Florida, for Havana Canning Company.

Q. What are the products of the Havana Canning Company, Mr. Seeley?

A. Canned vegetables, fruits, jellies and preserves.

Q. And your operations are all conducted at Havana, Florida, are they?

A. Yes sir.

Q. On the route of the truck service which is proposed in this proceeding?

A. Yes sir.

Q. Do you make less than carload shipments and receive carload shipments by rail at the present time?

A. Yes sir, very rarely do we handle a solid car shipment.

Q. Are these shipments made to and are they received from points outside of the State of Florida?

A. Yes, I would say 75 per cent of our sales are outside [fol. 1186] of the State of Florida.

Q. How about your inbound receipts?

A. Fully 75 percent of the inbound receipts are from out of the State.

Q. Taking your inbound shipments first, what is the nature of that traffic?

A. Well, it is supplies in the way of labels, glues and mill supplies, machinery and equipment.

Q. Where do they come from principally?

A. They principally come—Most of all canning machinery is manufactured in the north, at Philadelphia and Cleveland.

Q. How do they move to you now, by rail?

A. Yes.

Q. Over what route? On what foreign lines do they move, do they come to you through Jacksonville?

A. Yes sir.

Q. It was testified to this morning, Mr. Seeley, that through the inauguration of this truck service which we are proposing in this case there will be a saving of approximately twenty-four hours in the delivery of less than carload shipments to Havana. Will you state how that will affect your business?

A. Well, there have been instances when it would have affected us quite a bit. One time we had a small swivel joint to our steam hose, and we couldn't get it in New Orleans or Jacksonville, and we called up by long distance [fol. 1187] to both places, and wired for it, and we had to cease operations there until we could get it. Mr. Ellison, the hardware dealer, we asked them to get it as quickly as possible, and he said he instructed shipment as quick as possible, and we were held up one time three days for that little piece of machinery. It kept the whole plant from operating in that particular instance.

Q. Then, are prompt deliveries of importance to you in your business?

A. There have been instances when a difference of twelve hours would mean the difference between a sale and the loss of a sale.

Q. Speaking now of inbound shipments?

A. Inbound?

Q. Yes.

A. Well, the case I just related was quite a handicap, because when operations are ceased you are not manufacturing anything to fill your orders with. We have a certain amount of overhead that goes on regardless.

Q. Now, about your outbound shipments,—it was testified this morning that the proposed truck service would advance a movement of shipments moving through Jacksonville for example, approximately twenty-four hours. Will that be of benefit to you?

A. In that case it would give twenty-four hours quicker [fol. 1188] delivery, and it would be a benefit.

Q. Why is prompt delivery of your manufactured product of importance to you?

A. Well, we receive orders, sometimes maybe a broker will wire us this afternoon and ask us if we can deliver an order of 200 or 250 cases to Augusta, Georgia, or Charleston, South Carolina, by day after tomorrow morning, or a certain time, and probably it is some bid or other that they want to accept, and they want to know whether to accept it or not, whether we can make delivery on this bid. There have been instances where we investigated the service and found we could not make delivery, and we would have to notify them that we couldn't make delivery although we would be glad to accept the order. We would lose that sale. That has happened recently.

Q. So, you would welcome this improved service considerably I suppose?

A. Yes sir, we would be glad to have it.

Q. Did you mention, Mr. Seeley, what your inbound shipments consist of?

A. Yes sir.

Mr. Abeles: That is all.

Chairman Matthews: You may cross-examine.

Cross-examination.

By Mr. Walker:

Q. Mr. Seeley, how long ago was is that you had your [fol. 1189] trouble with some machinery that you were telling us about, and were delawed three days in getting it?

A. It was along about the first of June, I believe, it was about the beginning of the blackberry season.

Q. June of this year?

A. Yes sir.

Q. June, 1937?

A. Yes, sir.

Q. Wasn't there a truck line running through Havana at that time?

A. Yes sir, I think there was a truck line going through there.

Q. The L&L truck line wasn't it?

A. I think so.

Q. And you put in your order with the Seaboard Air Line Railroad, didn't you?

A. No sir, you can't order parts over the Seaboard Air Line.

Q. You put in your order to be shipped via the Seaboard Air Line?

A. No sir, we didn't specify any particular way, we just asked that it be shipped as quick as possible. We presume they shipped it as quick as they could.

Q. Did they ship it by the rail direct line or the Seaboard Air Line, do you recall?

[fol. 1190] A. I don't recall. As a matter of fact the shipment went to Mr. Ellison. He notified us and we went right up and got it. We had been after him for three or four days or a week, calling him up, and he was sending long distance messages and calls about it to hurry it up.

Q. If there was a truck line operating through that territory, serving the point where you ordered it from, either by itself, or by connecting lines, and yet it was ordered by rail, then you did not at that time feel any particular advantage in truck service, did you? Otherwise you would have ordered by truck, wouldn't you?

Mr. Abeles: Mr. Chairman, I think he ought to lay a predicate for these questions. There has been no evidence of any truck line service as yet.

Mr. Walker: There was testimony that there is a truck line operating there.

Mr. Abeles: Yes, but unless you show by the record that the shipment could have moved by truck quicker than by rail there is no predicate for your question.

Examiner Yardley: The witness stated that he did not specify the method of shipment. It was ordered through someone else to be shipped as quickly as possible.

Mr. Walker: The point is that this witness is here to testify to this matter of public convenience and necessity, and he was not sufficiently interested to ascertain whether [fol. 1191] a truck line was or was not a better service than the rail line.

By Examiner Yardley:

Q. How much did this swivel joint weigh?

A. Not over a couple of pounds, it is just a little elbow joint that lets the steam into the hose.

Examiner Yardley: I should think that the United States mail, or express, or bus line would be the best in that case.

Mr. Walker: I want to ask some questions along that line.

By Mr. Walker:

Q. Passing through Havana then there is a truck line, the railway express agency, and you have a post office there?

A. Yes sir.

Q. And there is a bus line that goes through there that carries light express?

A. Yes sir.

Q. But regardless of that, and your need for this particular gadget, you didn't take the pain to inquire which type of service would get it to you quicker, you just asked this man to get it?

A. No sir, I presumed that the people that we ordered it from would do like we do. When a customer tells us that he wants delivery at a certain time it is up to us to deliver [fol. 1192] it and not to him to investigate it. So, when we asked that it be delivered as quickly as possible we thought that it would be delivered by the quickest way it could come.

Q. Then, you don't know whether the truck line operated by the Seaboard Air Line would be of any advantage in regard to quickness as compared with the United States mail, the bus line or the express agency, do you?

A. No sir, and I do not understand that to be my business here. I understood that my purpose was to state that

anything that would give quicker service would be of benefit to me.

Q. You don't know whether this proposed line would give you quicker service or not, do you?

A. Nothing more than that it is the presumption that on the application they would give at least twenty-four hours quicker service.

Q. Have you any particular favorites in the trucking business? Would the L. & L. Truck Line interest you just as much as the Seaboard Air Line Truck Line?

A. We are not interested in the Seaboard Air Line, L. & L., or the Acme, or any of them.

Q. If the L. & L. Truck Line was capable of giving you this twenty-four hour quicker service you would just as soon use it as to use the Seaboard Air Line, would you not?

A. Absolutely.

[fol. 1193] Mr. Walker: That is all.

By Mr. Bliss:

Q. How long have you been with the Havana Canning Company?

A. Since February, 1915.

Q. Do you mind giving us the names of some of the other officials of the Havana Canning Company? I understand you are the auditor?

A. Yes sir.

Mr. Abeles: What is the purpose of that question, and what is its relevancy to this issue, may I ask?

Mr. Bliss: Without impeaching this witness' opinion it would be interesting to develop if any other officials of the Havana Canning Company who were with that company in 1935 have testified in 1935 that there was no public convenience or necessity.

Mr. Abeles: I don't think the witness is qualified to answer such a question.

Mr. Bliss: I am asking for the names of people with whom he is now working. My question was simply who are the other officials of the company.

Chairman Matthews: Go ahead and answer the question.

A. Who are the other officials?

Q. Yes.

A. Mrs. E. J. Stephens, is president, Mr. C. E. Parsons is secretary-treasurer. Really I don't know who the vice [fol. 1194] president is, to tell you the truth.

Q. Do you know if they have been in control of the Havana Canning Company since 1935.

A. The Havana Canning Company was incorporated on December 16th, 1935, I believe.

Q. Oh, it was a new concern beginning in 1935?

A. December 16, 1935, I think was the date of the incorporation of the Havana Canning Company.

Q. Were they the successors of any other company operating the plant?

A. No sir, they were not, but the same lady, Mrs. Stephens was president, and is president of the Gypsy Products Company at Charles, Florida.

Q. Where was this piece of machinery shipped from, this swivel joint that you were speaking of?

A. I don't know.

Q. You don't know where it came from?

A. No sir, I don't know where it came from, I know it didn't come from New Orleans or Jacksonville, because we tried everybody there and couldn't get it.

Q. And it took three days to get it?

A. It took longer than three days to get it, I think it took ten days or two weeks, but after we expected it to be there and we had made plans for beginning operations, it was something like three days.

[fol. 1195] Mr. Bliss: That is all.

By Mr. Kitchen:

Q. You say that Mr. C. E. Parsons was connected with your company?

A. Yes sir.

Q. In what official capacity?

A. Secretary and treasurer.

Q. Do you know whether or not Mr. C. E. Parsons testified before the Interstate Commerce hearing which was held September 28, 1936 through October 10, 1936, requesting truck service?

A. No sir, he didn't testify for the Havana Canning Company, because he himself has only been connected with that company since about the 15th day of January, 1937.

Q. Do you know whether or not he testified before the Florida Railroad Commission sometime this year for the intrastate operation of a truck line operating from Jacksonville through Havana, Florida?

Mr. Abeles: Just a moment, I object to that question, I do not see that an issue involving intrastate service has any materiality at all on the issues before the Commission in this proceeding.

Mr. Kitchen: If it pleases the Commission, I think that this board particularly will take judicial knowledge that the L. & L. Freight Lines has an application before the Interstate Commerce Commission for interstate rights as well as intrastate rights, and the said rights are to be deter-
[fol. 1196] mined in the future by the Commission, and at the present time this board has full cognizance that it has a full federal status and is operating under a full federal status in interstate commerce. The relevancy of the question is that the applicant concerns both interstate and intrastate, and they are certainly closely interlocked so that a question of this nature would be relevant at this time.

Chairman Matthews: I don't see exactly how you are going to prove anything. This witness says this man was not connected with that business at that time.

Mr. Kitchen: I asked him first about October and then I asked him after the first of this year. I will qualify him after the first of 1937.

Mr. Abeles: I still object.

Chairman Matthews: The testimony given by this witness will show what he testified to.

Mr. Kitchen: We still have a right I think to request this board to subpoena that witness if we find it is necessary to bring him in.

Chairman Matthews: The objection will be sustained.

Q. Compared in volume is your outbound freight greater or less than the inbound freight?

A. The outbound freight is by far greater.

Q. By far greater?

A. Yes sir.

[fol. 1197] Q. On your inbound freight—that is what you are particularly desirous of additional service on, is that correct?

A. No sir, not altogether. We are just as desirous for quicker service if possible on outbound freight as on incoming freight.

Q. On your outgoing freight,—to what principal points do you ship?

A. Well, we have brokers all over the southeast, and right at this time——

Q. Do you mean southeastern Florida?

A. No sir, the southeastern part of the United States, south of the Ohio River and east of the Mississippi River. In the Carolinas and Eastern Georgia we are not able to handle a lot of orders there, and we have had orders, and we would call the freight line and ask them if they could make deliveries for us by a certain time. Sometimes they could answer right off, and again they would say they would let us know in an hour or so and we would call back and they would probably be able, they would say, or they would not be able. If our own trucks happened to be off on a trip we would have to turn the order down, but if we figured our own trucks would be back we would load our truck and put a driver on it and send them out.

Q. Now, that is testimony of shipments into the Carolinas, is that correct?

[fol. 1198] A. The Carolinas and eastern Georgia. Those are the points that we find it hardest to get good service on.

Q. Eastern Georgia, that comprises Savannah?

A. Yes sir, and Augusta.

Q. Do you know that you could give a shipment to the L. & L. Freight Line, which is a truck line operating through Havana, that that truck line would make connection either in Atlanta or in Jacksonville with R. C. Motor Line and make delivery, first day delivery, give it to them this afternoon, and by tomorrow afternoon that freight would be delivered in most any point in North Carolina, South Carolina or Eastern Georgia?

Mr. Abele: Just a moment please. He is asking the witness does he know something. I don't mind him asking him whether he knows, but I do object to counsel testifying that such is a fact when there is no evidence of record to that effect.

Mr. Kitchin: I asked if he knew that fact. We are laying a predicate, and under that we will show the facts, when the protestant has opportunity to present any evidence be-

fore this Commission. Is counsel going to keep each and every one of these witnesses here and recall them to the stand for us to cross examine after we have put in our case?

Mr. Abeles: That is coming within the province of your own affirmative testimony, not to bring it out through cross-[fol. 1199] examination. If you want to ask him whether he knows what service those lines afford to those points that is all right, but I don't want you to state something as a fact as to which there is no evidence in the record.

Mr. Kitchin: I think it will be substantiated, if not, you can make a motion to strike.

Mr. Abeles: Well I object to the question.

Mr. Kitchin: He can answer whether he knows or does not know.

Mr. Abeles: We will let the board decide that and not you.

Mr. Kitchin: That is what I ask.

Examiner Yardley: You might ask him if he knows what the service is.

Mr. Kitchin: I asked him if that service is there. I asked him if he knew that he could give a shipment to the L. & L. Freight Lines at Havana, and that the L. & L. Line would make connection there, either in Atlanta or would make connection in Jacksonville with the R. C. Motor Line, and by truck the said order would be delivered sometime the second day in the afternoon in to any point in eastern Georgia, South Carolina or North Carolina, in the eastern section. I think he can testify whether he knows that or not.

Mr. Abeles: Yes he can testify whether he knows it, but what I object to is a lot of factual matter being put into [fol. 1200] the record through counsel rather than through the witnesses. I think my objection is well taken, Mr. Chairman.

Chairman Matthews: You can ask the question of the witness and not make statements. Go ahead and answer that question if you do know anything about it.

A. Well, I didn't know exactly what the service was there, but I do know there are times when we do know the L. & L. Freight Line or the Acme Truck Company can get a load to a certain place early tomorrow night sometime, but we know if they do get there at that time that place will be closed, and they probably do not have a convenient

place in which to take care of that stuff, and that truck has got to go on and then carry the stuff back or leave it in some sort of warehouse, or something they can put it in and notify the people to get it early the next morning. We could ship a little that way. That has been investigated several times. We have a proposition up now. We have a a broker in Newark, New Jersey, that wants to handle our line, and we are investigating to see whether or not we can get the proper type facilities to get the stuff there, and no doubt we will learn all about that. What we are after is the service regardless of who can give it, we are not interested in that, because we are working for the Havana Canning Company, and that is what we are looking out for, and until somebody offers me a better salary I am acting for them. That is our interest, and what we want is as [fol. 1201] quick a service as we can get. If we can get it to New York in six hours less, that means that much more sales and quicker money. Whoever gives it to us we will appreciate it and give them a good bit of haul. That is just our status in the matter. There is no concern for anybody but our own welfare.

Q. In other words, may I summarize your testimony——

Examiner Yardley: Don't summarize it. Ask another question.

Q. Then, are you adequately served now?

A. No sir, we are not. There has been a time or two that—as I say, I can't tell you the gentleman's name, but when Mr. Welch called him about making a delivery for us——

By Examiner Yardley:

Q. Who is Mr. Welch?

A. He is connected with the L&L Freight Line, and they have done some hauling for us, do a lot of hauling for us when they can do it, but there was one time I remember when his service was not available, and nobody else was available, and we had to send our truck. We don't use our truck when we can get another service, because we can't save any money by operating our own trucks. It is just a convenience to have it there to make a delivery like that one.

Q. Where was that point that you asked for service and the L&L Line couldn't give it?

A. I believe that that particular point was out from——

[fol. 1202] Q. Out from Chattanooga, Tennessee?

A. Yes sir, we sent our own truck on that trip.

Q. Do you know whether or not this proposed service as offered to you by the applicant will transport your merchandise from Havana to that point?

A. Well I would not be able to know unles that service were inaugurated and we tried it out.

Q. Do you know whether or not this proposed truck service as offered by the applicant will operate to that point?

A. Into Havana?

Q. Yes, to Havana, and to that point outside of Chattanooga?

A. I don't know about Chattanooga, but I suppose it will operate to Havana. It operates along the line of the Seaboard Air Line Railroad.

Q. The L&L line operates in to Havana; does it?

A. The L&L Freight Lines?

Q. Yes.

A. I believe so, yes sir.

Q. And it was not able to give you that service?

A. It was not in this particular instance.

Q. Why would the applicant be able to give you that service?

A. I don't believe I have said they would, but that one instance has not been all, there have been others, but that is the only one that I recall. If we can get the service we [fol. 1203] would not even own a truck of our own.

Q. The Seaboard Air Line, was it operating into Havana at that time?

A. Yes sir.

Q. At the time of that shipment?

A. Yes sir.

Q. Was the Seaboard Air Line Railway in a position to transport that merchandise for you?

A. No sir.

Q. Then if this operation as proposed here is to parallel the present operation of the Seaboard Air Line, what advantage if any would you have should this certificate be granted?

Mr. Abeles: Mr. Chairman, the witness has stated fully on his direct examination, specifically what advantage he is going to gain from this proposed service and without wanting to be obstructive to cross examination, it seems to me it is purely repetitious, and going over exactly the same thing that has been gone over before. I object to the question for the purpose of promoting the progress of this case.

Mr. Kitchin: Am I to understand that counsel objects to cross examination on anything that he has brought out on direct because it might be repetitious?

Mr. Abeles: Yes, I think so, when it becomes so repetitious as to delay the progress of the hearing.

Mr. Kitchen: I think this Commision will accept my [fol. 1204] view that it is not so repetitious as that. We have a right to cross examine on what has been brought out on direct.

Mr. Abeles: That is not cross examination. If you want the witness' testimony read over for the purpose of refreshing your recollection, I have no objection.

Mr. Kitchin: Mr. Chairman, we asked what advantage it would be to a specific point. We asked this, the question was this——

Chairman Matthews: He has already told you that the Seaboard Air Line did not give it to him and that the L&L Freight Line could not give him the service to that point. If the Seaboard Air Line couldn't give it to him the mere addition of a truck line to their service would not give it to him, would it?

Mr. Kitchin: That is what I wanted to find out from him.

Chairman Matthews: Give us a chance to draw some conclusions. Don't make the witness draw all of them. We want something to do.

Mr. Kitchin: Then take back your witness.

Redirect examination.

By Mr. Abeles:

Q. When you refer to this particular shipment of a part for your machine, that was a swivel joint, was it?

A. Yes sir.

[fol. 1205] Q. You don't mean, do you, that that was the only instance of a less than carload inbound shipment which

would have been advanced into your plant in the past several months, do you, through this proposed service?

A. No sir, I only used that small part as an illustration to show you how a small part of machinery can tie up the whole plant. We have bean cutters, which are big machines, about all a truck can carry. We have these bean scalpers and washing machines and sealing machines.

Q. I don't want you to go into too much detail, I simply wanted to inquire whether you had a substantial movement of inbound less than carload shipments into your plant?

A. Yes sir, we have.

Mr. Abeles: That is all.

Recross examination.

By Mr. Kitchen:

Q. What volume of freight inbound shipments would you estimate in a years period of time?

A. What amount of tonnage volume?

Q. Yes sir.

A. I wouldn't have any idea about that, because a lot of it is labels and a lot of it is machinery, and I don't know what it weighs. I know some of it is more than the men who can get hold of it can handle. It is compact and heavy. We will use say 250,000 labels, and they come in packages, I don't know about what they weigh but they are in heavy [fol. 1206] packages, all one man can handle, and sometimes we will get a couple of hundred of them at one time.

Q. For what duration of time would these labels last?

A. Well, we generally place our label orders the first part of the year, and try to figure our quantities in whatever amount we will need that year. Sometimes we will run over and sometimes we have to reorder.

Q. But that usually constitutes a year's business?

A. Yes sir, they are shipped out as we need them. We will place an order for a million labels, and we will have them shipped out as we want them. We don't have much storage room. It would take a building as big as this for the supply of labels to run a whole season. We have them shipped out during the season according to the pack.

Mr. Kitchen: That is all.

Chairman Matthews: Are there any further questions.

(Witness excused.)

B. T. THOMAS was sworn and testified as follows:

Direct examination.

By Mr. Abeles:

Q. Mr. Thomas, please state your name, residence and occupation.

A. My name is B. T. Thomas, I live at Live Oak, Florida, and I work for the J. R. Watkins Company.

Q. What is the nature of their business?

[fol. 1207] A. I am a salesman for them, acting as a dealer. We have different lines of stock. There are over 200 different items of stock, and we sell all through the country.

Q. What is the general nature of the merchandise you handle?

A. Well, we handle extracts, medicines, stock and poultry preparations.

Q. And your headquarters are in Live Oak?

A. Yes sir.

Q. Do you have inbound less than carload shipments coming into your plant?

A. No sir.

Q. How do you get your materials? Inbound materials?

A. Well we get them in small lots anywhere from say 200 pounds to a thousand pounds.

Q. How do they move into your plant by rail or by truck or how?

A. By rail.

Q. Then, they do move into your plant by rail?

A. Yes sir.

Q. Where do they come from?

A. Memphis, Tennessee.

Q. How do they move to your plant, to Live Oak, from Memphis?

A. Well now, the rails they come on, I don't know, I get most of my freight, for the last two years I have got it all [fol. 1208] through the Seaboard Air Line.

Q. Where from?

A. Memphis. The rails it comes on I don't know.

Q. I didn't mean the intermediate rail points, does it come through Jacksonville or through Bainbridge?

A. Through Bainbridge.

Q. It was testified to this morning, Mr. Thomas, that on shipments consigned to points between Tallahassee and Live Oak the deliveries would be advanced approximately twenty-four hours by the inauguration of the truck service proposed in this proceeding. Will you state what benefit your company will enjoy from this improved less than carload service?

Mr. Kitchen: Now, counsel has strenously objected to hypothetical questions. Their entire case here appears to be based on a hypothetical theory that they are going to get some additional service, and if the witness should get that additional service would it be of some advantage to him. He has continually throughout objected to any such testimony, and I think a number of times this board has sustained them. I object to that testimony as being not direct, nor seeking information which the witness himself knows. I object to it on that ground.

Chairman Matthews: Well, it has been testified on the record that they are going to operate on certain schedules and those schedules show that there will be certain time [fol. 1209] saved. Now, the witness was asked, I believe, that if that service were put into effect would it be an advantage to him. I think that is admissible.

Mr. Kitchen: Mr. Chairman, twenty-four hours quicker service than what?

Chairman Matthews: Than he is receiving now over the Seaboard Air Line.

Mr. Abeles: They have the present service by rail.

Mr. Kitchen: You are confining it to the present service by rail.

Mr. Abeles: Of course.

Q. Do you remember the question, Mr. Thomas?

A. I believe I do. Well, if I could get that twenty-four hour service it would mean a whole lot to me, because like it is it takes me anywhere from six days to eight days to get my stock, and lots of times I am out and have a rush order, and I just have to sit down and wait. I have went up to the depot as many as three trips trying to get freight, and it would be delayed. Usually I would get it about the seventh day, sometimes the eighth day. If I could get it twenty-four hours quicker it would mean lots to me.

Q. Do you make any interstate shipments from your plant?

A. No sir, I don't ship anything out.
Q. You ship nothing out at all?
A. No sir, I just get freight in.
[fol. 1210] Q. Then, your opinion would be dependent entirely upon your inbound shipments?
A. Yes sir.

Mr. Abeles: That is all.

Cross-examination.

By Mr. Kitchen:

Q. If that service as proposed by the applicant was not twenty-fours quicker, it would be of no advantage to you, is that correct?
A. Well, if I couldn't get the goods any quicker it would not be any advantage to me, if I could get them by rail as quick as I could by truck it wouldn't make any difference. All I want is swifter service. When I get out of goods I need it.
Q. What service are you getting from Memphis now, what length of time does it take for a shipment to go from Memphis to Live Oak by rail?
A. Well, it takes anywhere from six to eight days, it averages around seven days.
Q. Do you consider that inadequate to your needs?
A. Would I?
Q. I say do you?
A. It is what?
Q. Is this service from Memphis to Live Oak, the service now rendered by the railroad, inadequate?
A. Yes sir.
[fol. 1211] Q. If the present existing truck lines facilities could afford you four days service, would that be adequate to your needs?
A. Four days service?
Q. Yes.
A. Yes sir.

Mr. Kitchen: That is all.

By Mr. Bliss:

Q. Who determines the routing of your shipments from Memphis to Live Oak? Do you do that or does the shipper in Memphis do that?

A. The shipper in Memphis. I have written letters, I have written to the agents over here trying to get a nearer route so that I could get stuff quicker. That is left up to them, the route of the shipment. I have been in the business about seven years, and for the first four years I just ordered anyway, but I found I could get it moved maybe a day sooner on the Seaboard Air Line route, and of course I got the agent to send a letter to the Company to send it by the Seaboard in order to get my shipments quickly. That is what I was after.

Q. Have you ever suggested to the shipper at Memphis that he forward the shipments by truck service, a combination of motor carriers from Memphis to Live Oak?

A. I have written him to ship the quickest way, I have never asked him to ship them by truck.

[fol. 1212] Q. You never investigated the all truck service from Memphis to Live Oak?

A. No sir.

Q. And you don't know whether the shipper would accede to a request to ship it by truck in case it were quicker than shipping by rail, do you?

A. No.

Mr. Bliss: That is all.

Redirect examination.

By Mr. Abeles:

Q. Did I understand you to say, Mr. Thomas, that you had asked your agent to route the shipment via the quickest possible route, is that correct?

A. Yes.

Q. And you have never received a shipment by truck?

A. No sir.

Mr. Bliss: I object to that, because the shippers are not here to be cross-examined as to their reasons for using the rail carriers.

Mr. Abeles: I am not asking the shippers anything. I am simply asking Mr. Thomas whether in response to his request for shipment by the quickest route he has ever received a shipment by truck, and he answered no.

Chairman Matthews: The objection will be overruled.

Mr. Abeles: That is all.

Mr. Kitchen: Mr. Chairman, will you instruct this witness [fol. 1213] that he is not excused, we perhaps will recall him after we put in some testimony.

Mr. Abeles: Just a moment, I have to consult the witness. Do you want to get away?

The Witness: Yes sir, I am in a hurry to get away.

Mr. Abeles: I object to that request because we put these witnesses on out of order for the purpose of allowing them to get away, and I am anxious to accommodate them, because they are here at some sacrifice.

Chairman Matthews: Mr. Kitchen, if you want to interrogate the witness, do it now. I don't think we care to hold this witness here on the probability that you may want to question him later.

Mr. Kitchen: Major Matthews, I appreciate that the gentleman is busy, and for that reason we are not going to insist upon his remaining. However, we are going to have evidence to show that shipments from Memphis to Live Oak are made in four days.

(Witness excused.)

Chairman Matthews: Call your next witness.

Mr. Abeles: I will call Mr. Saunders.

HARRY SAUNDERS was sworn and testified as follows:

Direct examination.

By Mr. Abeles:

Q. Will you please state your name, residence and oc- [fol. 1214] cupation.

A. Harry Saunders, Port St. Joe, Florida, representing the Port St. Joe Paper Company.

Q. Is the Port St. Joe Paper Company a large concern?

A. It is now being constructed at a cost of something like seven and a half million dollars.

Q. What will be the nature of the business of that company?

A. Making Craft paper.

Q. From woodpulp?

A. Yes sir, from wood pulp.

Q. In the business of that company will you receive interstate shipments inbound to any substantial extent?

A. To a fairly large extent.

Q. Of what will those shipments consist?

A. They are likely to be quite varied in nature, machinery, tools, equipment of that nature, felt dryers, and numerous things of that nature, along that line.

Q. What are the origins, generally speaking of your shipments?

A. Mostly on the eastern seaboard in the large trade areas.

Q. Would those shipments move by rail?

A. I don't understand what you mean by the question.

Q. How would the shipments move to your plant, from the origins which you have stated? Would they move by rail?

[fol. 1215] A. Quite a few of them would move by water to Jacksonville and then by rail.

Q. Via the Seaboard Air Line and the Appalachicola Northern to Port St. Joe?

A. Yes, sir.

Q. Will you state what benefit that concern will enjoy from the truck service which we propose in this proceeding, or which the Seaboard Air Line Railroad proposes in these proceedings?

A. We would expect to receive the same benefit from it that we are now receiving from the intrastate truck service that the Seaboard is now operating. I may say that previous to the inauguration of this service it took from three to four days to get a shipment from Jacksonville of materials and supplies ordered from Jacksonville and shipped direct from Jacksonville. Since the inauguration of the truck service we can wire or telephone an order this afternoon and we will have the supplies on hand tomorrow afternoon. We figure that the inauguration of the service which you are applying for now will give us that same quick service after the supplies and materials reach Jacksonville.

Q. So, you have had actual experience with the improvement to be effected by the employment of a coordinated truck-rail service, is that correct?

A. We have.

[fol. 1216] Q. Have you had occasion to use truck service at all, all truck service, or water-truck service?

A. We haven't used truck service, as there is no truck line through Port St. Joe.

Q. No truck line at all?

A. No truck line at all. Port St. Joe is not close to a trade center, and everything we have to have must come from some outside point either by truck, boat, or some railroad, to Port St. Joe.

Q. Your plant is not now in operation I believe?

A. No sir.

Q. When it is in operation where will be the market for your products?

A. The market will be available anywhere in the United States, and possibly foreign ports.

Q. It will be national or international in character?

A. Yes sir.

Q. Will there be an advantage to you in expediting the outbound shipments from your plant when it is in operation?

A. There is a strong possibility that it will be, on small shipments.

Q. Most of your shipments will be in carloads I suppose?

A. Yes sir.

Q. But you expect to make some less than carload shipments?

A. Yes sir.

[fol. 1217] Mr. Abeles: That is all.

Cross-examination.

By Mr. Bliss:

Q. Mr. Saunders, your shipments in any event will arrive in Port St. Joe over the Appalachicola Northern?

A. Yes sir, that is at the present time and until such time as the harbor facilities are available, at this time it is possible that shipments, some shipments of carload proportion may come by boat.

Q. The residents of Port St. Joe are endeavoring to get better water facilities there, are they not?

A. Yes sir—You mean by that from the standpoint of habor, inland water or both?

Q. Well, one or both?

A. Well, we are trying to have both, with a different idea in mind. The inland will be from the standpoint of

bringing pulpwood in, while the harbor improvement will be more from the standpoint of shipping finished products out.

Q. Do you know the schedule of the Appalachicola Northern between River Junction and Port St. Joe?

A. Approximately.

Q. Can you state that for the record?

A. If my opinion is correct, the train leaves there between seven and eight in the morning and arrives in Port St. Joe about 12:45 p. m.

[fol. 1218] Q. That is the only southbound train?

A. That is the only scheduled southbound train, but they frequently run extra trains at the present time to take care of the business that the paper company has been developing.

Q. And what is your northbound service?

A. The scheduled train leaves at 6:15 p. m.

Q. Do you know if there are any through rates between the Appalachicola Northern and any motor carriers?

A. It is my understanding that there is not, it has been sometime since I have gone into the matter. I was told that there was no interchange between the railroad and any existing truck line. Whether that condition has changed recently or not I don't know.

Q. In speaking of coordinated motor and rail service, it would be a matter of indifference to you as to whether the coordination was with a subsidiary of the Seaboard or with an independent motor carrier. Would that be important to you, or would it be a matter of indifference?

A. It would certainly be important to us if they were not interchanging freight one with the other.

Q. You misunderstood my question. If there is a coordinated motor and rail service, does it make any difference to you whether the motor carrier part of that service is an independent carrier or a subsidiary of the railroad?

A. If I understand your question correctly, on a shipment [fol. 1219] from Jacksonville would it make any difference whether some truck line carries it to River Junction or whether the truck line of the railroad carries it to River Junction?

Q. As long as they had through rates, yes sir.

A. In view of the fact that those conditions do not exist I do not believe that I care to answer that question. It

depends on what truck lines and what service they might be able to give.

Q. You understand that this is a proposed service that is being asked for?

A. I do not consider it as such, it is an addition to present service.

Q. You mean your present intrastate service?

A. Yes sir.

Mr. Bliss: That is all.

By Mr. Kitchen:

Q. Mr. Saunders, how long have you resided in Port St. Joe?

A. How long?

Q. Yes sir.

A. I first went to Port St. Joe in May 1936, and have practically made it headquarters since that time. Business calls me away at frequent intervals, but that is my headquarters.

Q. Were you a member of the Florida state legislature?

A. I was.

[fol. 1220] Q. That was the legislature that passed house bill No. 138, was it not?

Mr. Abeles: I object to that question. I don't see any relevancy to the activities of the Florida Legislature in relation to this proceeding.

Mr. Kitchen: Well, I do.

Mr. Abeles: Well, I don't.

Chairman Matthews: What is the object of the question? I don't see just what bearing it would have on the case.

Mr. Kitchen: Major Matthews, on cross examination the witness may be cross examined for his liking for, or his liking against, and we can ascertain whether he is prejudiced for or against. Now, certainly this question as to whether or not he was a member of the legislature that passed House Bill No. 138, would certainly show that the witness is biased in favor of the railroad by voting for such a bill.

Mr. Abeles: I still object, Mr. Chairman.

Chairman Matthews: You may answer the question.

The Witness: Will you repeat the question.

Chairman Matthews: Read the question, Mr. Reporter.

(Question read.)

A. It was.

Q. Were you a member of the legislature from the district in which Port St. Joe is located?

A. I was not.

[fol. 1221] Q. Well at that time you were not representing the people in the district in which Port St. Joe is located?

A. No, not at that time, nor at any other time have I represented the people of Port St. Joe in the legislature.

Q. Have you been authorized by your company to come here and testify as to these matters?

A. I have been sent here by the operating manager of the mill, and by one of the directors of the company.

Q. Pardon me, I was not in the room—what is your official capacity?

A. Assistant to the operating manager.

Q. Do you have a traffic manager?

A. As yet we do not, that is, in a direct way; indirectly we have.

Q. Do you handle the traffic?

A. I do not.

Q. Then you are not familiar with the traffic situation, is that correct?

A. From a rate standpoint?

Q. From any standpoint we will say.

A. I am, as far as to receiving, and disabilities, and the length of time in receiving shipments, and things like that are concerned, yes sir.

Q. For what length of time has the Seaboard Air Line been operating trucks into Port St. Joe?

[fol. 1222] A. As far as I know they have never operated any trucks into Port St. Joe.

Q. They have not?

A. No sir.

Q. Then upon what are you basing your statement, or have you made a statement that truck transportation as stated in this application will be of benefit to you?

A. I have.

Q. On what do you base that statement?

A. Experience.

Q. What experience, if the Seaboard has not operated there?

A. The experience with the length of time it takes to get a shipment from Jacksonville before the Seaboard Air Line started operating trucks, as far as intrastate business is concerned, in connection with the Appalachicola Northern at River Junction, and the deliveries since that time.

Q. Have you received any shipments by way of the Seaboard Air Line truck service interstate?

A. Not to my knowledge.

Q. Then you have nothing concrete and your answer is based upon opinion and supposition; is that correct?

A. No sir, my answer is based on experience, and we do have something concrete.

Q. For instance?

A. For instance, take a General Electric Motor that [fol. 1223] comes down on the boat line and arrives in Jacksonville this afternoon, it is there available for shipment, and it comes by regular Seaboard Air Line movement. We find this afternoon we have to have a duplicate of that motor and are lucky enough to locate one in Jacksonville. The one that we locate in Jacksonville this afternoon will be in our plant tomorrow afternoon. They are available for shipment at the same time, but the one that comes by rail movement will be two or three days getting there.

Q. You are speaking of an example of the movement of a motor out of Jacksonville?

A. Or any other commodity, it would work on the same basis. I used that for an example.

Q. Any other commodity at the point of origin, Jacksonville, is that correct?

A. I used Jacksonville as one point of origin, and some other point as the other point of origin, but both being in Jacksonville at the same time.

Q. Have you ever received a motor shipped by boat to Jacksonville and delivered to you from Jacksonville on the trucks belonging to the Seaboard Air Line?

A. We have not.

Q. Then it resolves itself to a conclusion or opinion, does it not?

A. I can't agree with you that it does.

[fol. 1224] Q. Then you are basing your testimony purely on the movement of freight from Jacksonville to Port St. Joe?

A. I am basing it on our experience in moving freight from Jacksonville to Port St. Joe.

Mr. Kitchen: That is all.

Redirect examination.

By Mr. Abeles:

Q. Mr. Saunders, what county did you represent in the 1937 legislature?

A. St. Johns County.

Mr. Walker: I would like to know what is the basis for that question. It has nothing whatever to do with the case.

Mr. Abeles: I agree with you, but since our friend over here injected it, I am asking him.

Q. Mr. Saunders, getting back to something that we think is pertinent, let us clear up for the record an apparent confusion indicated by counsel's statement that your view as to the improvement in the service on an interstate shipment moving into Port St. Joe through Jacksonville is purely a matter of opinion, if that shipment moving through Jacksonville and through River Junction to Port St. Joe moves in the same vehicle between Jacksonville and River Junction, isn't it perfectly obvious that the interstate shipment would benefit to the same extent as the intrastate shipment is benefited?

[fol. 1225] Mr. Kitchen: May I inquire—Does this application call for transportation, or call for operation into Port St. Joe? I have not been able to see the application and study it?

Mr. Abeles: Operate by motor vehicle?

Mr. Kitchen: Into Port St. Joe. Is it asked for in this application?

Mr. Abeles: No.

Mr. Kitchen: Then I move that it be stricken from the record as immaterial and irrelevant all testimony heretofore given on that point, and any discussion of Port St. Joe, as being irrelevant and immaterial at this time, it is not contained within the application nor the rights sought by this applicant.

Chairman Matthews: Hasn't he shown on the record that there is connection at River Junction?

Mr. Abeles: Yes sir, fully.

Chairman Matthews: The motion will be overruled.

Q. Mr. Saunders, can you recall the question?

A. No sir.

Chairman Matthews: Mr. Reporter, will you please read the question?

(Question read by reporter.)

Mr. Kitchen: I object to the question as calling for a conclusion on the part of the witness, he not being qualified as an expert.

[fol. 1226] Mr. Abeles: He has stated his experience.

Chairman Matthews: I think he stated two or three times on the record what his experience has been, and I do not believe it is necessary to go over it again. The objection will be overruled. Let him answer the question.

A. There is no question about it in my opinion.

Mr. Abeles: That is all.

Chairman Matthews: Are there any further questions of this witness?

(Witness excused.)

George Gore was sworn and testified as follows:

Direct examination.

By Mr. Abeles:

Q. State your name, residence and occupation please, Mr. Gore.

A. George Gore, general freight and passenger agent of the Appalachicola Northern Railroad at Port St. Joe, Florida.

Q. Now, the Appalachicola Northern Railroad connects with the Seaboard Air Line at River Junction, does it not?

A. It does.

Q. Will you state the attitude of your company towards the application here before the Interstate Commerce Commission, Mr. Gore.

A. Well, the attitude of our company is that it is favorable to the extent that it improves and will improve the [fol. 1227] service on interstate shipments moving from beyond Jacksonville through Jacksonville.

Q. Have you had experience with the intrastate service which has been performed by the Seaboard Air Line by motor vehicle between Jacksonville and River Junction and interchanged with your line at River Junction?

A. Yes sir.

Q. Have you noted any improvement in that service?

A. We have.

Q. Has that benefited your line, or rather has it benefited the shippers on your line?

A. It has benefited the receivers on our line.

Q. I meant the receivers of freight.

Mr. Kitchen: I object, Mr. Commissioner, that calls for a conclusion on the part of the witness. How does he know it benefits the receivers?

Mr. Abeles: He can cross examine him on that part if he wants to.

Mr. Kitchen: But the receivers are not here to be cross examined, and he is surely stating a conclusion.

Mr. Abeles: Mr. Commissioner, I object to this interruption. The witness has made a statement of fact. If Mr. Kitchen wishes to question him as to the basis for his conclusion, let him do so on cross examination.

Mr. Kitchen: But we are not going to sit here and be [fol. 1228] dominated by counsel by any means. We are going to tell him just like anybody else that is purely a conclusion, and this commission and this board knows it is a conclusion, when he says the receivers have been benefited. That is a conclusion on his part, and it certainly is not admissible in any case.

Chairman Matthews: You might ask him as to the saving of time in the delivery of freight, and such matters as that.

Mr. Abeles: I was just about to ask him that question.

Mr. Kitchen: Then I move that it be stricken from the record, the answer.

Chairman Matthews: On that particular question I think we will grant the motion.

Q. How have the receivers on your line been benefited by the intrastate service which has been heretofore rendered by motor vehicle, Mr. Gore?

A. By getting their freight at destination quicker, and it allows them to a certain extent to carry a smaller stock on hand where they know they have a dependable service and can get it in a very short time.

Q. What stations are there on your line between River Junction and Port St. Joe?

A. There are a number of stations, Greensboro, Florida, Hosford, Telogia, Vilas, Sumatra, Appalachicola and Port St, Joe.

[fol. 1229] Q. Will the deliveries to all of those points be advanced twenty-four hours by the proposed truck service, as you understand it?

A. As I understand it, they will be.

Q. What is the distance between River Junction and Port St. Joe?

A. 96 miles.

Q. Are any of the stations on your line which you have named served by truck lines?

A. No common carrier truck lines.

Q. Is there any paved highway serving those points?

A. Yes, Greensboro, Florida, Appalachicola and Port St. Joe.

Q. But there are no common carrier truck lines serving any of these points?

A. No.

Mr. Abeles: That is all.

Chairman Matthews: You may cross examine.

Cross-examination.

By Mr. Walker:

Q. Mr. Gore, do you recall having appeared before the Florida Railroad Commission in February 1935, and testifying on oath that you considered the present rail service over these same routes satisfactory and adequate?

A. I don't recall testifying in 1935, but it is possible I did.

Q. Do you recall testifying in this rroom before the Florida Railroad Commission that the present rail service

[fol. 1230] in the territory which you have just testified about was adequate and satisfactory?

A. I have testified that the rail service given by the Appalachicola Northern was adequate, and that as far as I knew it was satisfactory.

Q. In reply to a question by Judge Oven, counsel for the Seaboard Air Line Railway as follows, "Do you find the connecting service with the lines that serve Jacksonville and Pensacola to River Junction adequate and satisfactory", and that your reply was, "Entirely so"?

A. Possibly I did.

Q. Why the change of front in your testimony here today?

A. I do not consider it a change of front.

Q. Please explain why, if the rail service was adequate and satisfactory from Jacksonville to River Junction in February, 1935, explain why it is inadequate today.

(Discussion was had off the record.)

Chairman Matthews: The witness may answer the question.

The Witness: Will you read the question please.

(Question read by reporter.)

A. That is rather a hard question to answer, because the rail service at the present time from Jacksonville to Port St. Joe is satisfactory on traffic originating in Jacksonville.

Q. Do you consider it adequate to meet the needs of the people in Port St. Joe?

[fol. 1231] A. The present rail service on traffic originating in Jacksonville consigned to Port St. Joe is, so far as I know, adequate and satisfactory.

Q. Now, on traffic moving interstate into Jacksonville from some northern point and then being transferred on through billing from Jacksonville to Port St. Joe by rail, is that adequate at the present time?

A. Well, as far as I know it is.

Mr. Walker: That is all.

By Mr. Bliss:

Q. Mr. Gore, what time does your train leave River Junction southbound, and what time does it arrive at Port St. Joe?

A. It leaves River Junction at 7:10 a. m., Eastern Time, and arrives at Port St. Joe at 12:50 P. M. Eastern Time.

Q. You don't wait for Seaboard Air Line Train number 83, which leaves Jacksonville at eight P. M. daily, according to the testimony, and is scheduled to arrive in River Junction at eight a. m. the following morning?

A. We do not.

Q. You can see, can't you, that you could speed the service up a day by simply waiting to make connection with that train?

A. If we would wait long enough, yes we would.

Q. How long would you have to wait in order to make connections?

[fol. 1232] A. Well, it depends altogether on the time the Seaboard Air Line train gets into River Junction.

Q. Suppose it arrives on schedule time, at eight a. m.

A. We would have to hold our train approximately two to three hours.

Q. Yet you could make connection with a truck which is scheduled to arrive at 6:15 a. m., only holding it one hour?

A. We don't hold our trains.

Q. Well, you have one hour, approximately, 55 minutes to be exact, between the arrival of the intrastate truck and the proposed interstate truck, and the departure of your train. Is that sufficient to interchange shipments with the truck line, your intrastate shipments?

A. We are making the interchange at the present time. That possibly answers your question.

Q. What I want you to explain is why you can not make this interchange by an adjustment in either one or the other train schedule without seeking a certificate of convenience and necessity in operating a new truck service?

A. We cannot delay the operation of our present schedule for the reason that it is a mixed train, and we have mail express and passengers on that train.

Q. Have you ever requested the Seaboard Air Line to speed up the arrival of train number eighty-three?

A. I have not.

[fol. 1233] Q. Do you interchange with the L&L Freight Lines at River Junction?

A. We do not.

Q. Have you approached or negotiated with them?

A. I have not.

Q. Would your company be willing to establish through rates with them?

A. From Jacksonville?

Q. Or say from Atlanta to Port St. Joe?

A. I don't think so.

Q. You are not the official of your company who makes that decision?

A. Yes.

Q. You do?

A. Yes.

Q. Can you tell us please why you cannot interchange with the existing truck line rather than promise to interchange with one which is simply being proposed?

A. Just what do you want me to answer?

Q. I don't know, I am asking for information.

Mr. Abeles: Well, let us ask these questions one at a time and see if we can get an answer.

Q. Do you propose to interchange on through rates with this new Seaboard Air Line service if it is granted?

A. We do.

[fol. 1234] Q. Do you now refuse to interchange with the existing interstate traffic service of the L&L Freight Lines, Inc.?

A. We do not interchange with them.

Q. If it would benefit the patrons on your line at Port St. Joe and the various destinations on your line, would you be willing to enter into negotiations to that end?

A. It would also be necessary for it to benefit the railroad company too. We would not, just because it benefited some particular patrons of our line.

Q. I would like you to explain to the Joint Board the distinction between the two situations, on the one hand the existing service which you will not interchange with, and on the other hand the proposed service which you will interchange with. Can you explain that distinction?

Mr. Abeles: Is there any through existing service between Jacksonville and River Junction, truck service?

Mr. Bliss: I understand there is. There is one from Atlanta.

A. We are dealing with Jacksonville to River Junction.

Mr. Bliss: Yes there is.

Mr. Kitchen: If we are dealing entirely with Jacksonville to River Junction, this hearing is a waste of time, because that is intrastate.

Mr. Bliss: I am waiting for an answer.

Mr. Abeles: If there is no through truck service between [fol. 1235] Jacksonville and River Junction the question is entirely unnecessary.

Mr. Bliss: I am told that there is.

Mr. Abeles: All right, have the witness answer the question.

The Witness: It is necessary to read the question.

(Question read.)

Mr. Abeles: You mean the existing truck service.

Mr. Bliss: I want him to explain his willingness in one case and his apparent unwillingness in the other case.

Mr. Abeles: I want to find out whether by interstate service you mean existing truck service?

Mr. Bliss: Yes, existing truck service. This is a motor carrier hearing.

A. I do not recall ever having been approached to establish interchange service with any existing truck line at River Junction.

Q. Have you ever seen fit to approach any motor carrier?

A. I have not.

Mr. Bliss: That is all.

By Mr. Kitchen:

Q. Do you know about the fact that you have refused to accept a prepaid shipment from the L&L Freight Lines from Marianna destined to Port St. Joe?

A. I do not.

Q. You don't know about it?

[fol. 1236] A. I do not.

Q. Do you know that your company refused such a shipment from the L&L Freight Line?

Mr. Abeles: Do you mean does he know whether the company has ever refused a shipment of that kind? Again I object to the form in which the statement is made, because it is virtually testimony from counsel, and a similar objection has been sustained before, Mr. Chairman.

Mr. Kitchen: Mr. Abeles, I am on cross examination, and I can lead the witness.

Mr. Abeles: You can lead the witness but you cannot testify, and you cannot lead the witness beyond certain limits (Wigmore on evidence). Ask questions rather than making statements.

Mr. Kitchen: Read the question please.

(Question read.)

Chairman Matthews: Reframe the question.

Q. Do you know whether or not your company has ever refused to interchange freight with the L&L Freight Lines on shipments originating at points outside of the State of Florida and destined to Port St. Joe?

A. We have refused to accept a shipment with the charges forwarded as COD charges; we have done that.

Q. Would you have accepted that shipment with the charges advanced?

[fol. 1237] Mr. Abeles: I think that question is improper, what he would have done under different circumstances. That is something that could not be foretold.

Mr. Kitchen: I think we have a right to know why he particularly favors this company, the Seaboard Air Line, above another truck line. I think that is particularly admissible.

Chairman Matthews: The objection is sustained.

Mr. Kitchen: I have no further questions.

Redirect examination.

By Mr. Abeles:

Q. Mr. Gore, you are not an operating man, are you?

A. No sir.

Q. If you held your train at River Junction for as much as three hours, what would be the result so far as your deliveries at Port St. Joe are concerned?

A. It would make a late afternoon delivery, if we were able to deliver at all.

Q. Would a late afternoon delivery do the receivers at Port St. Joe any good so far as that day's business was concerned?

Mr. Kitchen: I object to the question as calling for a conclusion, would it do the receivers at Port St. Joe any good—that is a conclusion.

Mr. Abeles: So far as that day's business is concerned. [fol. 1238] I think the witness as a traffic man can qualify to answer that question. He knows how those shipments are handled by the receivers, it is part of his duties.

Chairman Matthews: The objection is sustained.

Q. Do you know as a traffic man, Mr. Gore, as a railroad traffic man, the latest hour at which a shipment can be received at Port St. Joe for handling by the receivers at that time?

A. Well ordinarily a shipment if it came in after three or four o'clock in the afternoon, the receiver would not remove it until the next day.

Q. What time did you say your train now leaving River Junction at 7:10 a. m. arrives at Port St. Joe?

A. 12:50 p. m.

Q. Did I understand you correctly to say in your cross-examination that you considered the present rail service, disregarding truck service to be adequate, and if so, what did you mean by that statement?

A. Do you mean insofar as interstate traffic is concerned?

Q. Yes.

A. I mean that at the present time we are prepared with the service that we operate from River Junction to Port St. Joe, to handle all of the business that is offered, and that as far as our operation is concerned we have no complaints from any of our customers.

[fol. 1239] Q. Now, if you assume that you can advance interstate shipments moving through Jacksonville in connection with your line at River Junction twenty-four hours, would you say that the present service is adequate, if you refuse to give them that service?

Mr. Walker: I object to that Your Honor as arguing with his own witness. His own witness has brought out the fact that he considers the rail service entirely adequate and satisfactory. Now, this is argument, and an attempt to impeach his own witness.

Mr. Abeles: No, I am merely trying to get the witness to explain what he meant.

Mr. Kitchen: I think the witness also testified that he had had no complaint from anyone as to the service.

Mr. Abeles: That is not what I am asking. I am asking whether as a traffic man he would be giving his patrons service if he refused the opportunity to improve the traffic by twenty-four hours.

Mr. Walker: How can he then say it is adequate? He said it was adequate.

Mr. Abeles: He was testifying as to two years ago.

Mr. Walker: No, he testified that the present rail service was entirely adequate.

Mr. Abeles: I didn't understand him to do that. I understood he was testifying in regard to the 1935 proceedings.

[fol. 1240] Chairman Matthews: Let me ask the witness this question.

By Chairman Matthews:

Q. If this application of the Seaboard Air Line Railway is granted will you then make connection each morning at River Junction with their trucks?

A. It would be our intention to do so. I can say that in the past, since they have inaugurated the intrastate service, we have made each connection.

Mr. Abeles: I think that is all.

(Witness excused.)

T. W. Parsons, was recalled and testified further as follows:

Cross-examination.

By Mr. Walker:

Q. Mr. Parsons, I believe you testified that you are the assistant general manager for the southern division of the Seaboard Air Line Railway Company?

A. Southern District.

Q. What territory does that comprise?

A. That comprises the territory from Panama Park, just north of Jacksonville, to Florida, including the River Junction Line and the Line from Tallahassee to Bainbridge.

Q. In other words it covers Florida and part of the State of Georgia?

A. Yes sir.

Q. You testified this morning that you already hold a [fol. 1241] certificate of public convenience and necessity on intrastate carriage from the Florida Railway Commission. That was a certificate issued under the recent law which is known as House Bill No. 138, was it not?

A. I do not recall the House Bill number, but it is my understanding that it was authorized under legislation that passed during the last legislature.

Q. The law not requiring a public hearing or a showing of public convenience and necessity before the Commission for intrastate service, is that correct?

A. Yes sir.

Q. Then although you do possess a certificate of public convenience and necessity for intrastate carriage from this Commission, you have never shown or been granted a certificate from this Commission based upon a showing of public convenience and necessity; have you?

A. I don't think so. Do you mean this particular route?

Q. Yes, this particular route.

A. No.

Q. Now, as a matter of fact you have applied in the past to this Commission for such a certificate, have you not?

Mr. Abeles: Mr. Chairman, I have not objected heretofore, but I can't see that the intrastate situation has any relevancy whatsoever to the issue here before the Commission on an interstate application.

[fol. 1242] Mr. Walker: Why did you then in your direct examination, in your typewritten testimony go into the question of this intrastate operation?

Mr. Abeles: I can explain that very quickly.

Mr. Walker: Let me explain that a little.

Mr. Abeles: Let me answer your question. Because at the close of Mr. Parson's testimony he was asked whether there would be any additional cost of operation incident to performance of interstate operation over this route, and he said there would be none because the vehicles were already being operated in intrastate.

Mr. Walker: This was a question asked at the institution of this testimony, on page two of the testimony. Now, I can tell you the purpose of your question, Mr. Abeles, and the reason why it is asked that this be brought out on cross. It is simply this, that so far as the Interstate Commerce Commission knows by the very adroit question

about his holding a certificate already, Division 5 might conceivably have the idea that public convenience and necessity have heretofore been shown to the satisfaction of the Florida Railroad Commission. We want to show that every effort made by the Seaboard Air Line to obtain a certificate of public convenience and necessity from this Commission has been denied, and this Commission has consistently denied the application, and in so doing found that there was no showing of public convenience and necessity made.

[fol. 1243] Mr. Abeles: When you say this Commission, you mean the State Commission?

Mr. Walker: I am talking about the Florida Railroad Commission, I am not talking about the Joint Board. Now, to let him put in evidence the fact that he possesses a certificate of public convenience and necessity in intrastate commerce from the Florida Railroad Commission and not let us explain how he got it, is manifestly injurious to our case; so, this is simply to show that his position before this Florida Railroad Commission was never based upon any showing of public convenience and necessity, and that the only effort he made to show it, the Florida Railroad Commission turned him down, so this question is perfectly pertinent.

Mr. Abeles: May I reply to that briefly? So far as this proceeding is concerned the only thing the Interstate Commerce Commission is interested in is the public convenience and necessity of the proposed operation in interstate commerce. Now, any proceeding before the Florida Railroad Commission seeking an intrastate certificate obviously has to do only with intrastate service. Now, those two questions namely the public convenience and necessity for intrastate service on the one hand and for interstate service on the other are as wide apart as the two poles, and whether or not public necessity and convenience has been shown for [fol. 1244] intrastate service has no bearing, nor has the Interstate Commerce Commission in the slightest degree insisted on considering the question before the Commission in this proceeding, namely, the question of public convenience and necessity of an interstate service, and it seems to me we are confusing two wholly separable and separate things.

Mr. Walker: If it be confusing, he has begun the confusion. After he qualified the witness this morning, this question was propounded by Mr. Abeles: "Have we re-

ceived a certificate for such intrastate operation from the Florida Railroad Commission." If this is foreign to the issue, why did you ask him that?

Mr. Abeles: I just explained that.

Q. And the next question is "How long has that intrastate service been in operation." That is obviously to confuse Division 5 in Washington, to give them the impression that the Florida Railroad Commission has already decided that there is public convenience and necessity existing on intrastate traffic, so why not an interstate traffic?

Chairman Matthews: I think the witness testified that these certificates were held under an Act of the legislature, and not on a showing before the Commission.

Mr. Walker: That is what I am trying to bring out. We can certainly bring out the position of the Seaboard Air Line, the inconsistencies of their position. That has been [fol. 1245] allowed this morning in showing that certain witnesses testified here directly contrary to the way they testified in the former hearing, and that was permitted. Now, it seems to me perfectly permissible, and what we intend to establish by this witness is this, that when the truck lines asked for certificates interstate and intrastate over this route, and they come here with Mr. Parsons present and testifying, contending that there was no public necessity on this route for interstate or intrastate, and that the service here was adequate. They themselves applied for a certificate on interstate and intrastate and this Commission turned them down.

Then the L&L Line applied before the Interstate Commerce Commission, and they come in again and say, "No, this service is adequate," and now after that hearing, which was less than a year ago, they come in now and say, "Yes, it is necessary." Now certainly we can show that the applicant itself has taken four inconsistent positions chronologically.

Mr. Abeles: Of course that is a conclusion of counsel and we do not concede that the position we have taken in any case has been inconsistent. My only position is that testimony given in a case in which the only relevant issue was the public convenience and necessity of intrastate service, has no bearing upon the question before the Commission in this case, and I don't think any testimony given in any

such proceedings can be referred to here for any purpose [fol. 1246] whatsoever, whether it be for impeachment or any other purpose.

Mr. Walker: Is it your desire to confuse the record when you have shown and reiterated both this morning and this afternoon, and the Board has ruled on it twice, that two of these applications in which,—in the cases in which Mr. Parsons testified did contain an interstate allegation?

Mr. Abeles: I do not concede that they did. My position is that the interstate applications were not before the State Commission at that time. I should like to get this question ruled upon so it will not be delaying the proceeding continually, because it seems to me that our position is a sound one, and I would be very glad to have Mr. Parsons questioned on any testimony or statement which he made or may have made with reference to interstate service in the proceeding involving interstate service. I think that any reference to a proceeding in which intrastate service alone was involved is out of this picture entirely.

Examiner Yardley: Why did you bring that in, the intrastate service?

Mr. Walker: I brought that in for the sole purpose of explaining to the Commission that there would be no additional cost involved in rendering interstate service over the service which is already being rendered in intrastate commerce. It was not for the purpose of showing that we had established public convenience and necessity, but only [fol. 1247] for the purpose of explaining to the Commission what seems to us to be a material issue as to what additional costs the applicant here would incur through the establishment of interstate motor service, and that was my only purpose. Mr. Parsons testified in response to my question, "Will there be any additional cost incurred in operating the interstate truck service for interstate transportation," as follows: "No, there is no difference in the cost of operating a truck carrying intrastate traffic alone and both interstate and intrastate, and since we already operate for the transportation of intrastate traffic there will be no increase in cost for handling interstate traffic in these trucks." That was the only purpose I had in mind in referring to the intrastate operation.

Examiner Yardley: Was that statement based on the thought that the intrastate operations by truck are not now profitable?

Mr. Abeles: Not at all, it had no reference to the profitableness or unprofitableness of intrastate operations. It was simply for the purpose of showing that we are already incurring the cost of truck operation, and the interstate traffic would be handled in the same truck, and consequently no additional expense would be incurred if the authority we are seeking is granted.

Mr. Walker: Naturally he is not going to admit that the [fol. 1248] purpose of the evidence is what we assume it to be. Let us take it at its face value. Say that he had a very different purpose, it is the effect of testimony, not the purpose, or what one attorney might say his reasons were. It might be for the purpose of Mr. Parsons. Mr. Parsons has testified from typewritten testimony, I don't know who got it up. It might be Mr. Stanley's purpose, and not Mr. Abeles' purpose or Mr. Parsons' purpose, we have to consider the effect of testimony. We are on cross-examination, and he has been permitted to testify as to a certificate that he procured from this Railroad Commission on intrastate service, and I have certainly the right to bring out the circumstances under which that was procured.

Chairman Matthews: The witness has already stated in answer to your questions that it was secured under an act of the legislature and without any showing of public convenience and necessity, and it seems to me that is sufficient to set that matter right on the record, and that there is no occasion for going back into something that occurred before the Florida Railroad Commission. Further than that we did this morning permit you to question him about the testimony in that other case, and I understand that no objection is being made at this time to that line of questioning. I am going to sustain the objection.

Mr. Kitchen: Mr. Chairman, Mr. Walker's contention is [fol. 1249] purely for the purpose of impeaching the witness. Any testimony that will impeach the witness, any statement of any kind that he has made, if the proper predicate has been laid for the introduction of such testimony certainly is admissible in any court, no*t* matter whether it was made at a previous hearing or not. This witness here is being impeached upon things that he has testified to and things that he himself has said at previous hearings. If this witness were in a law case, and were to make a statement on that point contrary to the statements that

he made in the witness chair, certainly he could be impeached by the statements that he made before. Whether he made that statement before this Honorable Florida Railroad Commission I don't see that that puts any different phase on the matter. This witness has previously testified—I have the whole record here, a thousand pages——

Mr. Abeles: I grant you the right to argue your motion and my objection, but let us not have any statement of what is in that record go into this record until we get a ruling on the motion.

Mr. Kitchen: This is argument on the motion. Mr. Parsons has testified inconsistent with the testimony he has given today. Are we prohibited from impeaching him by his own words? Certainly that is not following the rules of evidence.

Chairman Matthews: Mr. Kitchen, the witness testified [fol. 1250] that he is operating under a certificate for intrastate service. He was not asked how he got that certificate until Mr. Walker asked him the question, and he said frankly they got it through an act of the legislature and without a showing of public convenience and necessity. Objection was made to Mr. Walker pursuing that course of questioning, asking whether the Florida Railroad Commission had not denied their application for intrastate certificate, and I cannot see that that has anything to do with this case, and therefore I have sustained the objection, and you may proceed. If you want an exception to it you may so note.

Mr. Kitchen: I want an exception.

By Mr. Walker:

Q. Mr. Parsons; did you not at one time testify before the Railroad Commission that your present rail service from Jacksonville to River Junction was adequate and that there was no convenience and necessity for a truck service there, either interstate or intrastate?

Mr. Abeles: Mr. Chairman, I make the same objection.

Chairman Matthews: We permitted that line of questioning this morning.

Mr. Abeles: I made my objections then to all of this line of testimony, and we excepted to the ruling.

Chairman Matthews: We merely sustained your objection in so far as the question went about the Florida Commission denying the application for a certificate.

[fol. 1251] Mr. Abeles: Very well, just to avoid repetition of objections, it is my understanding that the ruling is that Mr. Parsons can be questioned on any testimony which he gave before the Florida Commission in any proceeding involving this route?

Chairman Matthews: Yes.

Mr. Abeles: May I note an exception please.

Q. Will you answer the question?

A. Yes, sir.

Q. That was approximately February, 1935, was it not?

A. I don't recall being a witness in 1935.

Q. Do you—you do recall having testified to that effect don't you?

A. At sometime I think I did.

Q. As assistant general manager of the Seaboard Air Line do you or do you not know that in the year 1936 that line opposed the granting of a certificate of public convenience and necessity to the L. & L. Truck Lines, Inc., for interstate certificate on the ground that the present rail service of your line was adequate?

Mr. Abeles: Now, I ask you whether that application covered the identical route which is involved in these proceedings?

The Witness: No, it did not.

Mr. Abeles: Which application are you referring to, Mr. [fol. 1252] Walker?

Mr. Walker: I am talking about the Interstate Commerce Commission application heard here in 1936 before the Joint Board of the Interstate Commerce Commission.

Examiner Yardley: Whose application was that?

Mr. Walker: The application of the L. & L. Lines, Inc., covering this identical route. That was in October, 1936.

Examiner Yardley: That application covered the territory from Live Oak through Tallahassee to Marianna?

Mr. Walker: Yes, sir, and also interstate operation from Atlanta to Tallahassee, serving River Junction on the west and serving Live Oak, and connecting up with the Central Truck Lines on the east. The effect of it was to give a through service over the route sought to be served by this application.

(Discussion off the record.)

Mr. Abeles: Mr. Chairman, I think this is going far beyond your ruling in so far as the admissibility of questions based upon any record made or positions taken in that case. That route was from Atlanta to Tallahassee——

Mr. Walker: It covered the identical route you are now seeking.

Mr. Abeles: Was it an application for interstate service between Jacksonville and River Junction? That can be answered yes or no and I think upon that answer depends [fol. 1253] the ruling of the Joint Board.

Mr. Walker: We have two applications here, one from Jacksonville to Live Oak and the other from Live Oak to River Junction, which does cover the identical application, from Live Oak to River Junction.

Mr. Abeles: It does?

Mr. Walker: It does.

Mr. Abeles: But does not go to Jacksonville.

Mr. Walker: Only by connections.

Mr. Abeles: The certificate did not cover the operation from Live Oak to Jacksonville.

Mr. Walker: It did by connections, but not by direct route.

Mr. Abeles: The application did not ask for authority to operate between Jacksonville and Live Oak.

Mr. Walker: No.

Examiner Yardley: It covers it from Live Oak to River Junction.

Mr. Abeles: Are you opposing the operation from Jacksonville to Live Oak?

Mr. Walker: Yes, we are opposing both.

Mr. Abeles: Then this questioned to Live Oak to River Junction.

Mr. Walker: No, I asked him if he opposed the application of the L. & L. Truck Lines before the Interstate [fol. 1254] Commerce — on the ground that the existing rail service was adequate, in October 1936.

Mr. Abeles: Well, let us go along and see where these questions lead to.

A. I don't remember being a witness in that case.

Q. I asked you as assistant general manager of the railroad do you know whether or not your railroad company, the Seaboard Air Line, that you are assistant general manager for, did not oppose the application of the L. & L. Freight Lines, Inc.?

A. I don't recall it.

Q. You don't know whether your line ever opposed it or not?

A. I don't recall it.

Q. Is Tallahassee in your territory?

A. Yes, sir.

Q. Is Live Oak in your territory?

A. Yes, sir.

Q. Wouldn't it be your business to know it?

A. Not necessarily.

Q. In other words it would have been possible for the Seaboard Air Line to have opposed the application of the L. & L. Freight Line and you not know a thing about it?

A. Yes, sir.

Q. And if they did oppose it you don't know that?

A. I don't recall it.

[fol. 1255] By Examiner Yardley:

Q. Is it my understanding that this application covers less than truckload shipments only?

A. Less than carload.

Q. What is a less than carload shipment?

A. One package up to the capacity of a car, one shipment, two shipments, or a dozen, anything less than a solid car carrying a carload freight rate.

Q. It might take two trucks to handle a less than carload shipment?

A. Yes, even three.

Q. Does the applicant have a financial statement ready?

Mr. Abeles: Yes, but I have a witness to put that in and we will probably not get to him this afternoon.

Q. Are you the proper witness to talk about the Interstate Commerce Commission's safety regulations?

A. Well, I have indirect jurisdiction over that, but the man who has charge of that is the superintendent of motive power.

Q. Would you say that he is familiar with those regulations?

A. The superintendent of motive power?

Q. Yes.

A. Yes, sir, I would say he is.

Mr. Abeles: You are speaking about the trucks now?

Examiner Yardley: Yes.

The Witness: I should say he was but I have never had [fol. 1256] any question come up about it.

Examiner Yardley: We will assume that the applicant will supply that.

Mr. Abeles: I can assure you of that.

Chairman Matthews: We will not adjourn until 9:30 o'clock tomorrow morning.

(Whereupon at 4:55 p. m. the hearing was adjourned to October 20, 1937, at 9:30 a. m.)

[fol. 1257] BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. MC 86687, Sub. No. 9

In the Matter of the Application of SEABOARD AIR LINE RAILWAY CO. (Legh R. Powell, Jr., and Henry W. Anderson, Receivers), a Corporation, of S. A. L. Railway Bldg., Norfolk, Virginia, for a Certificate of Public Convenience and Necessity, Form BMC 8, Authorizing Extension of Operations as a Common Carrier by Motor Vehicle in the Transportation of Commodities Generally, in Interstate Commerce, in the State of Florida, between Jacksonville and Live Oak, Florida.

Docket No. MC 86687, Sub. No. 10

In the Matter of the Application of SEABOARD AIR LINE RAILWAY CO. (Legh R. Powell, Jr., and Henry W. Anderson, Receivers), a Corporation, of S. A. L. Railway Bldg., Norfolk, Virginia, for a Certificate of Public Convenience and Necessity, Form BMC 8, Authorizing Extension of Operations as a Common Carrier by Motor Vehicle in the Transportation Commodities Generally in Interstate Commerce, in the State of Florida between Live Oak and River Junction, Florida.

Tallahassee, Florida, October 20, 1937, At 9:30 o'clock a. m.

Before: Joint Board No. 205.

Present: Honorable Eugene S. Matthews, of the Florida Public Service Commission; Richard Yardley, Examiner, Interstate Commerce Commission.

Appearances: As heretofore noted.

[fol. 1258] Proceedings

Chairman Matthews: Come to order please. Gentlemen, we are ready to proceed.

T. W. Parsons resumed the stand and testified further as follows:

Cross-examination (continued):

By Mr. Bliss:

Q. Mr. Parsons, under your proposed service how would a shipment arriving at Jacksonville on Monday, say from the Clyde Mallory Line be handled when destined to be interchanged with the Appalachicola Northern Railroad?

A. By the Clyde Mallory Line?

Q. Yes.

A. That would be brought to our freight station at Jacksonville, and would leave Jacksonville at seven p. m., arriving at River Junction at 6:15 a. m., and go out by the Appalachicola Northern at 7:10 a. m.

Q. It would move from Jacksonville to River Junction by truck?

A. Yes, sir.

Q. You are proposing a partial movement by rail and partial movement by truck?

A. Partial movement by rail in connection with the Appalachicola Northern.

Q. I am referring to the service of your own line to reach [fol. 1259] the interchange.

A. No, that would be through truck service. It could be a rail and truck service.

Q. Would you move it through on the same truck?

A. Yes, sir.

Q. I thought you had one truck that turned back at Live Oak.

A. The schedule turns back, but the truck goes through.

Q. Now, in your applications 9 and 10, do they provide for a through service?

A. No, these are separate applications. The service is through, or can be made through, and will be made through.

Q. Practically speaking a truck will move all the way from Jacksonville to River Junction?

A. Yes.

Q. On the one application, number 9, it goes as far as Live Oak, and under number 10 it goes from Live Oak to River Junction?

A. Yes, sir. As far as that is concerned, the next day that truck could go to Tampa. It is not a question of territory, it is a question of schedules.

Q. But the piece of freight would stay on the same truck from Jacksonville to River Junction under this plan?

A. Yes, it would.

By Examiner Yardley:

Q. Of course if one application was granted and the other [fol. 1260] was not, say from Jacksonville to Live Oak, then it would be necessary to put that shipment on a train?

A. Yes, sir, it would go to Live Oak in a train and then by truck.

By Mr. Walker:

Q. Is it not a fact that if permission were granted to go from Live Oak to River Junction, but denied from Jacksonville to Live Oak, it would not be necessary to move that freight by train to Live Oak and then change over to a truck? Isn't it a fact that you could interchange with the Central Truck Line at Live Oak?

A. It is a fact that they could?

Q. Yes.

A. Yes, but we wouldn't do it.

Q. But you could do it?

A. That is assuming of course that the schedules matched up.

By Mr. Bliss:

Q. Why wouldn't you interchange with the Central Truck Lines at Live Oak?

A. Here is the reason: We get that freight from the Clyde Line at Jacksonville, haul it and pay drayage transfer at Jacksonville from the car to the warehouse, and then haul it down there, and give it to the Central Truck Lines? No, we wouldn't do that. We wouldn't give it to anybody.

Q. I am not interested in the terminal service at Jack- [fol. 1261] sonville, that could be arranged and taken care of in the division. I am asking you again why you would not interchange with a carrier already having rights.

A. Because I would not experience that loss—Neither you nor me could arrange the terminal matters that you speak of.

Q. It is your answer then because you don't wish to short haul yourself?

A. Why certainly. You don't do it. The St. Johns River Line don't do it, and nobody else does it, and we are not going to do it.

Q. You are asking me if we don't short haul ourselves in order to get better service?

A. I am telling you, you don't.

(Discussion off the record.)

Q. When you speak of the coordinated rail and motor service, what do you mean—coordinated at what point?

A. This is what I mean: For instance we have——

Mr. Abeles: Let me interrupt there. I have no objection to Mr. Parsons answering that question, but I am going to have another witness who will explain exactly what we mean by a coordinated service. I would prefer to have that witness cross-examined on that question, and I think I have the right to ask that that line of testimony be confined to the other witness, because Mr. Parsons merely testified to what we are proposing to do with the truck service in the way of truck operation. I do not think, [fol. 1262] in fact I am certain that he did not attempt to define, nor did he mention as I recall it, coordinated truck service. I believe we would make better progress and get a better record if the questions can be confined to the actual physical operations which we propose. Mr. Stanley, who is to go on the stand will explain matters relative to coordinated service.

Mr. Bliss: Will Mr. Stanley also be acquainted with the facts as well as the theory?

Mr. Abeles: You mean operating facts?

Mr. Bliss: Yes sir.

Mr. Abeles: Well, Mr. Parsons is entirely familiar with that, and testified in some detail as to operating facts, and any questions relating to operations I think will be properly put to him.

Mr. Bliss: We are trying to reconcile the theory and the facts.

Mr. Abeles: Suppose you go ahead with your questioning and see what develops.

Mr. Bliss: I will state it a little differently. I will withdraw that question as to what was meant, and ask the witness to give an example of coordinated rail and motor service under this proposed plan.

The Witness: As an illustration there is loaded daily except Sundays, one car of merchandise at New Orleans, [fol. 1263] and one car at Pensacola. That comes to River Junction this morning, and is picked up by train 82, leaving River Junction at ten a. m. Any freight for Havana can be unloaded out of the cars at Quincy and be picked up and delivered by truck within about two hours, whereas without the use of the trucks that shipment would come to Tallahassee and then go down to Havana on the Bainbridge local, thereby saving a day's delay to the shipper. Now, that train could come to Tallahassee and set the cars out at Tallahassee, work out the Tallahassee freight, and all the freight in those cars can be picked up and distributed north of Tallahassee the same day. They would be delivered this afternoon instead of tomorrow.

Another instance, there is a carload at Birmingham every day, Atlanta and Montgomery, that breaks bulk at Tallahassee. It comes to Havana and can be unloaded in the Havana depot and picked up this morning and delivered at Quincy and thence to River Junction the same morning, whereas if it comes to Tallahassee it is transferred and forwarded the next day by train, and that saves a day.

Now, by reason of the necessity of very high class fast freight train, and its connections, we cannot work a local between Live Oak and Jacksonville the same day. The result of that is that there is a day's delay. If we could handle that in trucks, all shipments between Tallahassee and Jacksonville would be delivered the same afternoon, [fol. 1264] arriving at Jacksonville at four a. m.

Q. You mentioned a movement from New Orleans to River Junction by rail. What railroad would that be?

A. The Louisville and Nashville.

Q. And then it is transferred to a Seaboard Air Line train or to a Seaboard truck under this proposal?

A. Seaboard train.

Q. It goes to Tallahassee by train?

A. No I didn't say that.

Q. I am talking about a shipment from New Orleans to Havana.

A. What did you ask me?

Q. I said it would be transferred to a Seaboard Train or to a Seaboard truck?

A. No.

Q. Which?

A. To a truck. If it came on a through train to River Junction, handled in connection with our train to Quincy, Florida, unloaded at Quincy and picked up by a truck out of River Junction and carried to Havana the same afternoon.

Q. Now, your train No. 83, I believe you testified, leaves Jacksonville at eight p. m. daily and is scheduled to arrive at River Junction at eight a. m. the following morning. Why couldn't that train be speeded up slightly in order to make the Appalachicola Northern connection?

[fol. 1265] A. The distance is too far from Jacksonville to River Junction and the time is too fast.

Q. That train moves as fast as it possibly can?

A. No.

Q. The train is slightly slower than the truck movement, is it?

A. Yes, it is slower than the truck movement.

Q. Is that true in general of trains?

A. Of trains?

Q. Yes.

A. No.

Q. Does that train have to perform any local work under this proposal.

A. No—you are speaking of train 83?

Q. Yes sir.

A. No.

Mr. Abeles: Do you mean under the present or proposed service?

Mr. Bliss: Either one.

Q. Tell me about it in either case, what sort of train that is, whether it is a through train, or if it is a local train, what local work is performed?

A. Well I will say it is both a through train and a local.

By Mr. Abeles:

Q. Mr. Parsons, if I might suggest clarifying the record, state what service the train now performs and what it will [fol. 1266] perform after the proposed truck service is established.

A. That train runs as a through train to Live Oak, and works local at all points between Live Oak and Tallahassee, and Tallahassee and River Junction.

By Mr. Bliss:

Q. That is at present?

A. At present. The proposed service is that we discontinue the local work.

Q. And allow that train to run through to River Junction?

A. Yes, that is the idea, to advance freight to Tallahassee and carload shipments to Quincy.

Q. And yet the time of that train will not be speeded up?

A. Oh, yes.

Q. What will its new schedule be?

A. I don't know.

Q. Then you do propose to speed up that train service if this application is granted?

A. Yes sir, that is one of the main things we want to do.

By Chairman Matthews:

Q. Mr. Parsons, does the train now make its scheduled time at River Junction?

A. Do you mean if it makes the present schedule arrival?

Q. Yes.

A. No sir, it does not as a general thing, but sometimes it does.

Q. Then is it true that you need to speed it up in order [fol. 1267] to make your present schedule?

A. Yes sir.

By Mr. Bliss:

Q. You mentioned in your testimony that you were already handling intrastate less than carload service by trucks over this route?

A. Yes.

Q. And that you could handle the interstate shipments at no additional costs. Are the trucks at the present time operated at less than loaded capacity?

A. In some cases they are, and in some cases they are at loaded capacity.

Q. In those cases where they are operated at capacity would you have to put additional trucks on the highway in order to take care of the interstate freight?

A. Yes, if we had over a truckload even intrastate we would put on another truck.

Q. So that you would then incur additional costs?

A. Under that condition, yes.

Q. How would you handle freight destined to Live Oak, Florida, from Montgomery, Alabama—how do you handle it at present and how do you propose to handle it?

A. It is according to what it is, whether it is less than carload or carload.

Q. Take less carload.

A. That goes out of Montgomery and comes to Talla-
[fol. 1268] hassee at night. It is unloaded at Tallahassee and loaded and consolidated with other merchandise at Tallahassee and goes to Live Oak on Train 82 leaving Tallahassee at 1:10 p. m.

Q. How do you propose to handle it?

A. We propose to handle that, I believe I said in my statement, let us see—That shipment, the way we would handle that, would be to set it out at Live Oak on 82, and pick it up by truck the same night, and work between Live Oak and Jacksonville. All the freight that would go through in this car would be worked out the same night between Live Oak and Jacksonville.

Q. At what point would the freight be set out?

A. At Live Oak.

Q. That is under the proposal?

A. Yes.

Q. Then a shipment from Montgomery to Live Oak would move all the way by train?

A. To Live Oak proper?

Q. Yes.

A. Yes, I thought you were talking about Live Oak and Jacksonville.

Q. I meant Live Oak proper.

A. We have both freight and truck service. If that was in a car that would break bulk at Tallahassee, and the train

was gone, then we would have an opportunity to take it by [fol. 1269] truck. In that case we would save twenty-four hours.

Q. Actually, Mr. Parsons, if this proposal is granted you will have a number of alternate methods of routing your freight, won't you?

A. Yes, that is where the coordination of train and truck service comes in.

Q. And your operating officials on the ground will be in position to handle freight one day by truck and another day by rail?

A. If we had a case where it would mean a twenty-four hour delay we would handle by train and if it meant a twenty-four hour delay by truck we would handle it by train, and vice versa. As a matter of fact, we are trying to speed it up. That has brought about this condition. A few years ago where a man would have twenty-five thousand dollars or thirty thousand dollars worth of goods in stock, today that same man is carrying five thousand dollars worth of goods. He is saving an investment of twenty-five thousand dollars due to quicker service, and that is what we are trying to give.

Q. You don't feel that you could figure out some other way to do this than to go to this Commission for a certificate of public convenience and necessity?

A. Figure some other way to do it?

Q. Yes.

[fol. 1270] A. Well, I suppose there might be some other way, but it would be cumbersome, expensive and impractical. I am not saying that our service is not good, we have got good service over here. We have tried to figure out the needs of people on this railroad, that is our whole thought, and we are putting forth every effort we can to improve our service all the time.

Q. Does the railway express agency operate over your line?

A. Yes sir.

Q. Have you ever made any proposals to the Central Truck Lines, Inc., or the L&L Freight Lines, Inc., for them to so arrange their schedules as to assist you in speeding up your service by rail?

A. No.

Q. Isn't it true that you have a general policy against interchanging with independent motor carriers?

A. I don't know of any interchanging we are doing with independent motor carriers, but we don't do it with all railroads, it is a matter of divisions and rates, a matter of our own interests, that is what we are in the transportation business for, to keep our heads out of water. We have given up the idea of making money, but we do want to keep our heads out of water, and we certainly are not going to sacrifice any business, and give business away if [fol. 1271] we can get it. We are working too hard to get it to give it away to somebody else.

Q. You are however affiliated with a large number of railroads?

A. Yes, quite a number of them.

Q. Do you have any jurisdiction over the question of exchanging astray freight with various carriers?

A. What do you mean by astray freight?

Q. Your policy with respect to the interchange of strays.

A. Do you mean to swap freight.

Mr. Bliss: Strike that, because it apparently does not come under Mr. Parson's department.

The Witness: It might not, but I am able to tell you.

Mr. Bliss: Let it go.

Mr. Abeles: I would like to know what astray freight means, it is a new term to me.

Mr. Bliss: I think we might as well strike the whole matter, because Mr. Parsons is evidently not the one to explain it. That is all I have to ask.

By Mr. Kitchens:

Q. Mr. Parsons, in your official capacity with the Seaboard Air Line Railway, and your years of experience within the territory sought under the applications, you are fully acquainted with the Seaboard Air Line's facilities and all their transportation facilities within this area, are you not?

[fol. 1272] A. No.

Q. You are not?

A. No.

Q. Do you know that the L&L Freight Lines, a truck line which operates motor trucks upon the highways, operates in interstate commerce between——

Mr. Abeles: Just a moment. I renew my objection to the form of the question which counsel is putting. They are statements instead of questions. If you want to ask the witness if he knows what motor truck service that company is operating in this territory then, of course that is your right, but you have no right, in my judgment, and I submit to the Chairman that you have no right to make statements as you have persistently done for the purpose of getting factual evidence into the record through your own mouth rather than through the mouth of the witness. I realize of course that the Commission usually pays no attention to statements of counsel, but I think I have the right to keep it out of the record entirely.

Q. Do you know whether or not the L&L Freight Lines, a corporation is operating motor vehicles in interstate commerce over United States Highway No. 90 between Live Oak, Florida, Tallahassee, and as far as Marianna in interstate commerce?

Mr. Abeles: Just a moment. Mr. Chairman, I concede him the right to ask this witness whether he knows over [fol. 1273] what routes the L&L Freight Lines operate, but I do not concede him the right to define any particular route with the plain implication which he wishes the record to contain, that the L&L Freight Line does operate over this route, when there is not a scintilla of evidence to that effect in the record up to this time.

Mr. Kitchen: Mr. Chairman, I can't understand counsel's view. I asked the simple question if he knew that the L&L Freight Line operates. If I had asked if it operated in this territory he would want to know what particular part of the territory. He specifically asked that question yesterday, did the L&L operate from Jacksonville to Live Oak. Now, I confine that question and ask whether or not the witness knows that the L&L operates over United States Highway 90, the highway designated in this application of the applicant, and whether it operated between Live Oak, Florida, Tallahassee, Florida and Marianna. Those are the identical same towns to which the applicant is operating. Certainly the witness can testify whether he knows they operate, or whether he does not know. There is not a statement in there that is leading, and no statement in there that is improper. I think any court would permit that.

Chairman Matthews: The application does not ask for authority to operate to Marianna.

Mr. Kitchen: To Marianna, no, but I asked did he op-
[fol. 1273] erate through Marianna. The operation goes through River Junction, the last point under this application, so I can see nothing particularly wrong with the question.

Chairman Matthews: Let the witness answer the question if he knows.

A. No.

Mr. Walker: Just at this point, the chairman suggested yesterday that we might save some time, instead of having actual testimony as to the routes of these other protestants, that we might stipulate within ten days, and supply certified copies of our routes. That to my mind would save a lot of time, and cover the very point that Mr. Kitchen asked in that question. I understand the Seaboard Air Line has that under discussion at the present time. We can avoid all these questions and save a lot of time by stipulating that we are to file a certified copy of our routes and schedules within ten days.

Mr. Abeles: As filed with the Railroad Commission?

Mr. Walker: Yes.

Mr. Abeles: In other words, there will be no routes and schedules filed other than those which have been authorized by the Florida Railroad Commission—Is that my understanding.

Examiner Yardley: Do we need all this in the record?

Mr. Abeles: No.

[fol. 1275] (Discussion had off the record.)

Mr. Abeles: Let us go on with this cross-examination and we may be able to cut it short later on.

Chairman Matthews: Go ahead with the cross-examination.

By Mr. Kitchen:

Q. Do you know whether or not the L&L Freight Line operates motor vehicles over portions of the territory sought by the Seaboard Air Line here in this application today?

A. I can't say that I do.

Q. You can't say that you do?

A. No.

Q. And you claim that you have made a very thorough investigation into the transportation facilities within the territory; is that correct?

A. Of my own.

Q. Then I ask you, do you come before this board and limit your testimony purely to an investigation of the transportation facilities of the Seaboard Air Line solely?

A. What do you mean by facilities? Are you talking about depots or train service?

Q. Any transportation that is offered within the territory to the public. You have just stated that you made an investigation, and that you investigated your own. Now, I limit the question to this: Do you come before this board to testify that you know nothing of any other transporta-
[fol. 1276] tion facility offered to the public in that territory save and except the services offered by the Seaboard Air Line?

A. If I know nothing of any other transportation?

Q. Facilities and services offered by any company.

A. I don't know about any other transportation operation. My effort has been to improve my own condition and I see the way to do it, and give our people better service.

Q. Is this application filed by the Seaboard Air Line Railway Company, or the proposal as stated within the application, is it for the benefit of service to a community or a territory where at the present time there is no existing adequate service?

A. Right there, don't get me as saying we are not giving good service. We are giving as good service as any transportation line that I know of, and this territory is getting it, but we have an opportunity to improve that service and that is what we are seeking.

Q. You are not alleging to this board that there is not now existing within this territory adequate service for the needs of the public.

Mr. Abeles: Mr. Chairman, I think that is a conclusion to be drawn by the Commission rather than by the witness, and I would like to have the cross-examination confined, if the Commission please, to questions of fact rather than

conclusions. It seems to me we are wasting an enormous [fol. 1277] amount of time.

Mr. Kitchen: This man was put on the stand and qualified as an operating expert, he is the assistant general manager and traffic manager, and he is well familiar with the conditions, and he was put on the stand here for the purpose of telling this board all he knew, and what was needed within this territory, and supposedly his statement which was written there, and was alleged to be the statement of Mr. Parsons by counsel, showed the purpose of this application. Now, the purpose of this application is to improve service. We are here on an application to prove public necessity and convenience. I want to find out whether or not this expert here knows the conditions in the territory, and I want to find out whether or not this expert here is offering service to the public because there is not adequate service now there, and I want to find out if there is not adequate service there to tell us that fact. I think that is perfectly permissible.

Mr. Abeles: Mr. Chairman, my understanding is that the question whether there is a public convenience and necessity for this service or not is a legal conclusion which the Commission should decide and not a witness.

Chairman Matthews: Mr. Kitchen, don't ask for too many conclusions. Bring out the facts as well as you can, but the Commission should have an opportunity to draw its [fol. 1278] own conclusions from the facts.

Mr. Kitchen: Mr. Reporter, will you please read the question.

(Question read by reporter.)

Mr. Abeles: Whether there is adequate service is a conclusion to be drawn from the facts.

Mr. Kitchen: I withdraw the last question.

By Mr. Kitchen:

Q. Mr. Parsons, do you know whether or not this application as now filed before the Interstate Commerce Commission, either of the two applications, was based upon the fact that the present existing transportation facilities do not afford adequate service to the territory in which the applicant seeks to operate?

Mr. Abeles: Of course that is the same question in another form, Mr. Chairman.

Mr. Kitchen: I will ask the board to rule on that, and I will ask the stenographer to read it back to the board and ask the board to rule on it.

Chairman Matthews: Read it back.

(Reporter reads the question.)

Chairman Matthews: He may answer the question if he knows.

A. There is a difference between adequate service and needed service. From the standpoint of adequacy you can take every truck line off the highways and use our freight [fol. 1279] service, and it would handle the business. Now, the needed service, of course, is by reason of speed that people are seeking, howling for. In our study of the whole Seaboard Air Line system, not only of this line, but our whole thought and it has been gone over very thoroughly by Mr. Stanley and his organization, our whole thought is to improve our service to keep up with the times, to keep up with the demands of people receiving freight, and that is how we arrive at the fact that we can improve service here, and we are trying to do it, as we are trying to do it everywhere.

Q. Did the Seaboard Air Line in the transportation of passengers improve their service by placing these little motor cars on the lines of the Seaboard Air Line between Jacksonville and Tallahassee?

A. Yes.

Q. I ask you now if the increase in schedules and the faster operating time of that vehicle is what you base your answer upon?

A. Well, it had a great deal to do with it. The time of the day was the most important influence.

Q. Was there an additional schedule to the former schedule offered to the public from Jacksonville to Tallahassee?

A. Yes. If I may continue my answer—Adequate service—One train a day would handle every passenger we have, but it is a matter of what the people wanted. That is why [fol. 1280] the rail bus was put on.

Q. And that took care of that need at least temporarily, did it?

A. Not temporarily, it is still taking care of it.

Q. Mr. Parsons, why wouldn't it be just as reasonable to assume that additional schedules of the train, or a change in the present schedule of the train, would meet the need of the public if such schedules were quicker.

A. Our train schedules cannot be changed. They can only be quickened by the use of our trucks to handle the interstate business, because that would take the peddling of merchandise off of some of the through trains.

Q. From Jacksonville to River Junction—Your line, does it extend beyond that, the Seaboard Air Line?

A. No.

Q. If your freight schedule were made faster would there be any reason why it could not be held at River Junction awaiting a schedule with the Louisville and Nashville Railroad?

A. With the Louisville and Nashville?

Q. Yes, if you connected with the Louisville and Nashville Railroad at River Junction.

A. Read that question please.

(Question read.)

A. I don't know what you mean—we make the Louisville [fol. 1281] and Nashville schedule.

Q. I mean is there any reason why you couldn't get there ahead of time, and not make direct connections with the Louisville and Nashville. Is there any reason why it couldn't be delayed there in that town.

A. I declare I don't understand what you are asking. Will you read that question.

Q. I will withdraw the question and ask you this, Mr. Parsons: In your statement there, your testimony, you have offered to the public an increase in how many hours of service?

A. Increase in how many hours?

Q. Yes, in service. In other words the witnesses who testified yesterday said that if twelve hours could be taken off of the time of delivery it would be a great saving and a great advantage to them. Am I correct in saying twelve hours or was it twenty-four hours?

A. That is according to the case. Some might be twelve hours and some might be twenty-four hours.

Q. I think the witnesses testified that way. Is there anything in this written statement that you made yesterday on direct examination as to the number of hours saved to

the receiver of freight by the inauguration of this service if it is granted?

A. Yes, there are some specific statements in there, and [fol. 1282] the statement I made a while ago just to illustrate, the movement of merchandise from New Orleans, Atlanta and those points. I can't tell you here how many hours the total amount was, I can't tell you that, but I just enumerated here this morning an instance where we would save time to the consumer of freight moving in cars from different territories.

Q. Your counsel yesterday indicated to the witness on the stand, asked this question in substance: If this service would give you 12 hours quicker service would it be of advantage to you in your business, and the answer by the witnesses was yes. On cross-examination I asked several witnesses what advantage this service was going to be and they said this advantage would be an increase or saving of twelve hours time. I asked them how did they know that and they said they heard the witness Parsons testify to that. Now, are you going to save twelve hours. Mr. Parsons?

Mr. Abeles: Mr. Chairman, I am most reluctant to interrupt cross-examination, but it seems to me that here we have been going round and round and round in a circle, covering testimony which is already in the record, and the substance of the question that the counsel is now asking the witness to do is to repeat in toto what he has already testified to. I would like to register my objection, for the purpose of saving time.

Chairman Matthews: The objection will be sustained to [fol. 1283] that form of question. Mr. Kitchen, if you want to ask him anything direct about the service, and how he will save time, you may do so, but I think that was explained several times. Let us not review all the testimony.

Q. Mr. Parsons, how are you going to save the twelve hours time?

Examiner Yardley: He stated that yesterday, I think that is plain enough.

Chairman Matthews: I think it has been covered.

Examiner Yardley: I have to read all this stuff, and it has been gone over time and time again.

(Discussion off the record.)

Q. Mr. Parsons, if I should give a package to the Seaboard Air Line in Charleston, South Carolina, today, consigned to Tallahassee, Florida, under your present schedule when would it be delivered in Tallahassee, and under your proposed schedule when would it be delivered?

A. You will note by my evidence that my jurisdiction extends just north of Jacksonville. I have the schedules, but I haven't got the schedules with me. I would say in my best estimation, if that freight was put in in Charleston this morning it would be in Jacksonville the following morning.

Q. And that would be Thursday?

A. It would be in Jacksonville the same night.

By Examiner Yardley:

Q. The time to Jacksonville would be the same, wouldn't [fol. 1284] it? The only time saved would be from Jacksonville to Tallahassee?

A. Yes, that would leave Jacksonville under the present schedule at eight o'clock and be scheduled to arrive at Tallahassee at five o'clock the following morning. Of course if that was an emergency shipment, something that was of an extremely emergency nature, we would put that in Tallahassee by four o'clock in the afternoon.

Q. Tell us how it would get there with the truck service?

A. The only difference in that would be that it would arrive at Tallahassee by truck at 4:40 a. m., and here we have one advantage of truck over the rail service. A local shipment from Charleston would move to Jacksonville, be placed in the house and transferred to a box car. If for any reason, by accumulation of freight and congestion, that freight would be left over in Jacksonville, we would have two more hours more time to get it on the trucks than we would in freight service. We can put the shipment in our Jacksonville warehouse at seven p. m. or a little later, which would move by freight. Our freight house closes for train service at five p. m., and we would have two hours more time with the truck service than by train.

Mr. Kitchen: That is all.

Chairman Matthews: Are there any further questions?

(Witness excused.)

[fol. 1285] Mr. Abeles: Mr. Chairman, there is no evidence of record as to the truck operations now in service in the

territory covered by this application. In order to save considerable time, counsel for the truck lines and myself have agreed, if agreeable to the Chairman, that within ten days after the close of this hearing a stipulation will be filed showing the physical truck operations in this territory, accompanied by a legend or a supplemental statement, whichever may be agreed upon by counsel, explaining the status of those operations under the Federal Motor Carrier Act, that is, whether applications have been filed for interstate certificates, and if so the status of those applications with the commission.

In this way we believe that the Commission will be fully informed as to the status of motor carrier operations in this territory, and a great deal of time will be saved at the present hearing. Is that agreeable?

Mr. Walker: That is entirely agreeable. I would like to state now, so there will not be any differences of opinion that we concede, and I think you agree, that in getting up that statement and preparing that legend that it is not only the trucks actually physically operating over this road that are concerned, but trucks which by connections serve this territory.

Mr. Abeles: That is understood, any facts regarding truck operations either directly along the route here involved, [fol. 1286] or serving this territory through connections may be included in this stipulation, subject of course to any argument as to the relevancy that counsel may desire to make.

Mr. Walker: That is entirely agreeable.

Mr. Kitchen: Mr. Abeles, may I inquire whether or not you have included schedules in there showing the towns in which the movement of freight can by virtue of such connections or otherwise be made?

Mr. Walker: It is further stipulated and understood between counsel for the applicant and protestants that actual schedules in effect on the date of this hearing may be included in the statement heretofore referred to by counsel for the applicant.

Chairman Matthews: That stipulation is satisfactory to the board.

Mr. Kitchen: It is satisfactory to me.

Chairman Matthews: If there is any further testimony you may call your next witness.

W. L. STANLEY was sworn and testified as follows:

Direct examination.

By Mr. Abeles:

Q. Please state your name, residence and occupation.

A. W. L. Stanley, residence Atlanta, Georgia, vice president of the Seaboard Air Line Railway Company, and chief [fol. 1287] public relations officer for these receivers.

Q. Will you state your association and connection with the development of motor carrier service by the Seaboard Air Line Railway and its receivers.

A. In connection with other officers of the railroad I have made a study of the possibility of improving our service by the use of motor vehicles over a period of several years, a number of years.

Q. Have you been intimately familiar with the plan and purpose which the receivers have in mind in establishing this service?

A. Yes.

Q. Will you explain what that plan is.

A. The objective is through the use of motor vehicles and the coordination of rail and highway service to improve the service which we are rendering to the public in the transportation of freight.

Q. What kind of freight?

A. Less than carload freight. Also, as a result, improve the service by the use of motor vehicles in handling the less than carload freight, to improve the carload freight also.

Q. Do the applications here under consideration by the Commission conform to this general plan and purpose?

A. They do.

[fol. 1288] Q. Is it the objective of the receivers to enter into motor carrier transportation independent of its rail service in any respect?

A. Our policy in developing motor vehicle——

Mr. Kitchen: Mr. Chairman, I object to the question on the ground that it is irrelevant and immaterial and tends to prove nothing on the issues here under the applications.

Chairman Matthews: Will the reporter read the question.

(Question read.)

(Chairman Matthews: I think that question may be answered.

Mr. Kitchen: I withdraw the objection.

A. Our objective has been to improve the service to the public, to confine our operations solely to the territory which is served by our rail lines, and not to go off of that territory; to operate wherever we are permitted to do so, motor vehicles over the highways or public roads that are adjacent to our tracks, and which serve the same communities which our rail lines serve.

Mr. Kitchen: Just a minute please. If it please the Commission, at this time I wish to move that the applications, the two applications presented before this board be dismissed, first, on the ground that the said board here sitting has no jurisdiction over the matters and things sought by [fol. 1289] the applicant; second, that it affirmatively appears from this statement of Mr. Stanley, the witness for the applicant, that it is not the intention of the Seaboard Air Line to engage as a separate business in operating motor vehicles over the highways so as to place this applicant under the provisions of Part 2 of the Interstate Commerce Act, commonly known as the Motor Carrier Act of 1935.

Third, that the said matters and things as presented herein by the application and the statement of the witness, Mr. Stanley, for the applicant, affirmatively and clearly manifest that this is an extension of a railroad operation under Part 1 of the Interstate Commerce Act. Therefore counsel respectfully submit that the said application be dismissed without prejudice to the right of the said applicant to apply before the Interstate Commerce Commission under part one for an extension of such railroad service.

Mr. Walker: Counsel for the protestants wish to join Mr. Kitchen in that motion.

Mr. Abeles: Does the Chairman wish to hear from me on that?

Chairman Matthews: The motion will be taken under advisement.

Examiner Yardley: I would like to get the protestant's position on that at this time. Do I understand that an application of this kind should be filed under Part 1 of the Act? [fol. 1290] Is that your contention?

Mr. Kitchen: Yes sir.

Mr. Abeles: And that, I take it, is the gravamen of the motion. I think it is clear beyond any question, Mr. Chairman, and the Commission has so held, that any motor application is cognizable by the Commission under Part 2 of the Act, and the Commission had held long before the enactment of the Motor Carrier Act that it had no jurisdiction over the extension of rail lines through the medium of motor carrier service. That has been held time and time again by the Commission, and it does not warrant any further argument.

Chairman Matthews: You may proceed.

Q. Mr. Stanley, will the traffic which we propose to carry in these motor trucks be offered as rail traffic or as motor traffic? What is the situation in that respect?

A. It will be offered as rail traffic and moved under railroad bills of lading.

Q. Has the applicant had experience in the operation of similar types of service thus far throughout their system?

A. Yes sir; over a period of a number of years.

Q. Will you just state what that experience has been, Mr. Stanley.

Mr. Kitchen: May it please the Commission, I move to strike the question on the ground that it has no direct relation or bearing on this particular application. If it were [fol. 1291] limited to this application I think it would be permissible, but unless counsel cares to modify said question I object to it on the ground that it is immaterial and irrelevant and as being too remote.

Chairman Matthews: The motion will be denied.

Q. Proceed, Mr. Stanley.

A. We have had such experience extending over a number of years. The first motor vehicle service which the Seaboard Air Line established was some five or six years ago in North Carolina, between Hamlet and Monroe, North Carolina, for the handling of freight and express between those points, and such traffic as might come to us at either one of those points destined to stations between them.

Q. As you recite this service, Mr. Stanley, can you give us the approximate mileage?

A. I don't know that I can give you the mileage of each one of them. The one to which I have just referred covers

a distance of about 54 miles. I can give you the total, and I can approximate most of them.

Q. Proceed.

A. The next service that was established was between Monticello and Drifton, Florida, under order of the Florida Railroad Commission Number 590, dated April 29, 1933.

The actual service in all these cases was established only after the date of the authority.

[fol. 1292] The operation between Monticello and Drifton covers a distance of approximately four miles, and the rail operation between those points was a branch line.

Mr. Kitchen: I move the Commission to require of the witness first that he be qualified as to whether or not that experience of transporting freight in and between these points is a movement of interstate freight or intrastate freight.

Mr. Abeles: I will bring that out later, Mr. Kitchen.

Mr. Kitchen: Mr. Chairman, I insist that that be done at this particular time.

Mr. Abeles: I would like to conduct my direct examination in my own way.

Chairman Matthews: I can't see that it makes much difference one way or the other, Mr. Kitchen.

(Discussion had off the record.)

Chairman Matthews: I think the evidence of the witness so far has antedated the passage of the motor carrier act and therefore he could have operated both interstate and intrastate, as other truck operators operated. He may answer the question and let Mr. Abeles go on with his examination.

Q. All right, Mr. Stanley, proceed.

A. The next motor vehicle service was authorized by the Florida Railroad Commission by its order No. 716, dated November 26, 1934, between Tampa and Brooksville, and Waldo and Morriston, two separate operations.

[fol. 1293] That operation was begun about January 1, 1935, and those distances are each about 55 or 60 miles.

The next operation was the establishment of a truck service between Jacksonville and Wildwood, Florida, pursuant to order No. 777 of the Florida Railroad Commission dated August 6th, 1935. That distance is about 160 miles, but I am not positive about it.

The next one was between Fernandino and Yulee, under the order of the Florida Railroad Commission dated October 16, 1935, the order being No. 795. The distance there is about twelve miles.

The next service was a re-routing which was covered by the order of the Commission, the original order of the Commission No. 716 and was between Tampa and Brooksville, the extension to include Tampa Shores, Clearwater, New Port Ritchie, and intermediate points. That was the order of the Commission No. 818, dated December 27th, 1935.

Q. When you refer to orders of the Commission you mean the Florida Commission?

A. I am referring in all cases to orders of the Florida Railroad Commission.

Q. Proceed.

A. The next was an extension of operations between Jacksonville and Wildwood originally covered by Order 777, so as to permit operation between Wildwood and Tampa, [fol. 1294] and that order was dated August 18, 1936, and was order No. 884.

Now, all of those operations referred to covered a highway mileage of approximately 450 miles.

We are also operating under Order No. 1025 of the Florida Commission, issued July 1, 1937, a truck service between Jacksonville and Live Oak, handling intrastate freight only, and under order No. 1026, dated July 1, 1937, a truck operation between Live Oak and River Junction, handling intrastate freight only. The distance between Jacksonville and River Junction is approximately 208 miles.

Q. So that in total mileage we are now operating something in the neighborhood of 800 miles?

A. No, it is about 658 miles.

Q. Has our experience with those operations been satisfactory, Mr. Stanley?

A. It has been very satisfactory.

Q. Have they accomplished the purpose which we have in mind, and some of which have been testified to in this proceeding here?

Mr. Kitchen: Don't you think it would be better to let the witness testify how it is satisfactory instead of experience that it has been satisfactory. Let the Board draw the conclusion.

Mr. Abeles: If you had listened to my question you would have heard that I said in respect of the testimony here.

[fol. 1295] Mr. Kitchen: I still think the board should draw the conclusions.

Chairman Matthews: He may answer the question.

A. What was the question?

(Question read.)

A. Yes.

Q. Have any of these services been discontinued since their inception?

A. None of them.

Q. Has the experience that we have had in the service now in operation encouraged us to inaugurate the service which is here sought?

A. Yes, before we undertake to obtain authority to establish any truck line operation we make a very careful study of the territory over which it is thought possible that it may be profitable to the railroad and to the public to operate such service, and when we determine in our own minds that those results will be obtained, then we endeavor to get the proper authority from the States and the Interstate Commerce Commission to establish these operations.

Mr. Abeles, I might say this if I may be permitted to do it, that what we are seeking to do is covered by the general statement which I made in the beginning of my testimony, namely, to improve the service which it is possible for us to render to the public; in other words to use these motor [fol. 1296] vehicles not so much as independent transportation facilities, as to coordinate them with our train service, and through that coordination to improve the handling of both the carload and less than carload freight.

Now, I might illustrate what I have in mind by taking the case here under consideration. I think it has been testified here that train No. 83, operating from Jacksonville to River Junction, handles both carload and less than carload freight, and that it operates as a local freight train between Live Oak and Tallahassee. Now, it is our belief that to the extent that we are able to take from that train the less than carload business, the local work it does between Live Oak and Tallahassee, that we will be able to expedite the movement of carload freight, which is also handled by that train and put it to its destination, especially that which covers

long distances, in very much quicker time; and by the same token that we will be able through the use of the trucks to handle the less than carload business to these intermediate points.

Now, I may say this, theoretically we think we know in a general way what we may do in the coordination of this service but what can actually be accomplished will only come to us with experience. As to whether or not we can handle freight to a certain point by rail and truck, take it to that point by rail and then handle it by truck, or whether it would [fol. 1297] be desirable in the public interests to handle it for the entire distance by truck, those things can only come through experience. Nobody can definitely map out just what kind of operation we are going to have.

Let me say another thing. Mr. Parsons of course is more familiar with the operation in this territory than I am, and he has testified to it. Now, it may be possible, nobody can tell that, it may be possible that you relieve Train No. 83 of the local work between Live Oak and Tallahassee, that that will enable you to so speed up that train that you can more economically handle your freight from Jacksonville to River Junction by train to make the connections with the Appalachicola Northern. We don't know whether that can be done or not, but that is one of the possibilities.

Another illustration is this, that it is necessary to close our warehouses at the larger receiving stations at a certain hour in order to take the cars that have been loaded during the day out to the yards and assemble them in a train, and have that train depart on time. I think that the closing hour at our station at Jacksonville for the receipt of freight is five o'clock. That car must be moved at that time out to the yard in order to have the train made up that it is to go out in on schedule time. Now, any freight that comes to us, destined to any station between Jacksonville and River [fol. 1298] Junction, after five o'clock in the afternoon, can be moved by truck. Otherwise it would stay in that depot until five o'clock the next day, the next afternoon. Then, I might say this, if I may be permitted to cover this in a general way, we get a great deal of interstate freight through certain gateways destined to points in Florida. The principal gateways are Jacksonville, River Junction, Montgomery, Alabama, to which point the Seaboard Air Line has a line down through Tallahassee. Now, that freight

into Jacksonville will be moved into that point by rail and by boat to the extent that it is moved by rail into Jacksonville and then by truck from Jacksonville west, we are carrying out a scheme of coordination which we had in mind as it applies to interstate shipments. In other words, the haul has been by rail up to Jacksonville, and it may be by truck west of Jacksonville in carrying it to its destination.

Q. Mr. Stanley, is the Seaboard Air Line financially able to undertake the truck service which is here proposed?

A. Yes.

Q. Have you a copy of the annual report of the Seaboard Air Line and its receivers before you?

A. Yes.

Mr. Abeles: I should like to introduce that annual report as an exhibit.

Mr. Walker: We will have no objection to the introduction of this annual report. I do not see the necessity, since [fol. 1299] it is in without objection, of having extracts read from it or references made to it in any detailed way.

Mr. Abeles: Oh no, there will not be any in detail.

Chairman Matthews: It will be received as an exhibit.

(Exhibit 2, Witness Stanley, received in evidence.)

Q. Mr. Stanley, will you state the result of operations for the year ending December 31, 1936, as shown by this report?

A. For that period the railway operating revenues of the Seaboard Air Line Railway were $38,346,055.37.

The net railway operating income, that is the sum remaining after the payment of taxes, equipment rent and operating expenses, was, $2,920,582.99.

Income from other sources amounted to $366,168.24.

The gross income of the railroad for that year was $3,276,751.23.

Q. Then is there any question of the financial ability of the Seaboard Air Line Railroad to undertake this service?

A. None, absolutely, so far as these operations are concerned, and I might say here, Mr. Abeles, that we consider what we are attempting to do is just a part of our rail operations, and these trucks under our theory of this case are just as much a part of our facilities as our locomotives and our boxcars.

Q. Now Mr. Stanley, with regard to the financial result of [fol. 1300] the services which we are proposing here, taken

apart from their necessarily close relationship to rail operations, can you state whether in your judgment they will be financially profitable?

A. That is my opinion.

Q. Is it feasible to separate the actual revenues and expenses derived from the truck operations from revenues and expenses of the rail service?

A. No it is not possible or feasible, and it would be extremely expensive. As I stated a while ago, however, a shipment of freight moves, whether by rail or by truck, and whether partially by each of those instrumentalities, it is going to move on a railroad bill of lading, and the charges for that transportation in either instance will be those provided for in the published tariffs of the railroad. It would serve no good purpose whatever if the railroad had to set up accounts showing how much their earnings were from truck operation and how much from rail operation, and then show separately and independently the cost of the truck operation.

By Examiner Yardley:

Q. Is the Seaboard Air Line willing to adopt any method of accounting prescribed by the Commission for truck lines?

A. The Seaboard Air Line is willing to comply with any rules of the Commission. Our theory is that it would be [fol. 1301] unnecessary and unduly expensive to undertake to set up separate accounts showing the income and disbursements of the truck lines, when that is just a part of our rail operation, auxiliary to it.

By Mr. Abeles:

Q. Mr. Stanley, frequent references have been made on cross-examination of previous witnesses to the attitude of the Seaboard Air Line towards other independent motor carrier service in this territory. What have you to say on that subject?

A. I have been an officer of the railroad and of the receivers charged with the duty of determining whether or not opposition should be made to applications of independent motor carriers to establish routes in the territory that the Seaboard serves. A great many of the independent operations in Seaboard territory, and I think I might safely say the State as a whole, are covered by certificates granted

under the grandfather clause of the motor vehicle act, and I think that is true as to those operations that probably come under the grandfather clause of the Federal act, most of them. Now, when applications are filed to establish truck routes in a territory that is served by the railroad, we have usually opposed them and we have opposed them upon those grounds, that throughout this territory in Florida the density of traffic is not very great; that there is not sufficient business in the territory to justify the operation [fol. 1302] of competing forms of transportation; and we have taken the position that our rail service in view of those facts is sufficiently adequate to take care of the traffic that is available in the territory. We have endeavored to show that fact, that our service is adequate when measured by the amount of traffic to be handled.

Now, what we are seeking to do is not to establish a new and different method of transportation, but to improve a service which we believe if considered solely from the standpoint of rail transportation is adequate, by supplementing truck service to handle that business.

By Examiner Yardley:

Q. The question, according to my understanding, is why you do not desire to interchange with truck lines.

A. I didn't understand it that way.

Mr. Abeles: Oh, no, Mr. Examiner, Mr. Stanley's reply was quite responsive to my question, but I am coming to that question now.

By Mr. Abeles:

Q. Had you finished your answer?

A. Yes, sir.

Q. Now, Mr. Stanley, as suggested by the Examiner, it might be appropriate to comment upon the position of the railway with regard to the interchange of traffic with other independent truck lines. That has been touched on before, but I should like to have you amplify that.

[fol. 1303] A. We have been opposed to that so long as the Interstate Commerce Commission does not require it. There are a good many reasons why we object to it. I will name a few of them. One is that it would involve the keeping of accounts with innumerable independent truck

operations, the putting in of rates and divisions with them, all of which would involve a very substantial cost.

The second reason is that we cannot control the schedules of our competitors, their truck schedules, and in order to bring about the coordination which we have in mind it is essential that under one management there should be control both of rail and truck schedules.

The third reason is—and I disclaim any intention of reflecting upon the protestants here—that there are good and bad operators, there are some who are strong financially and some that are weak financially, there are some whose morals—and I use that word in its broadest sense—are good, and some whose morals are not good. So, we do not think it is desirable in the public interests that through routes and divisions be put in with independent truck lines.

Those are our reasons.

Q. Let me ask you in particular, Mr. Stanley, with regard to that question—How as a practical matter could we exchange with the L. & L. Line, assuming that the L. & L. Lines operate——

A. Let me say one other thing which is a strong argu- [fol. 1304] ment. I was about to overlook it. If we made that interchange, as I understand the contentions of the protestants in this case, it would be necessary for us to short haul ourselves, or, to explain the meaning of that word, to give up a part of the revenue and a part of the haul, which revenue we were capable of earning and capable of making.

Take this illustration: Suppose that in interstate commerce the Seaboard Air Line has a shipment of freight moving from Charleston, South Carolina to Tallahassee, Florida. The Seaboard Air Line serves both of those points. Now, it is inconceivable that we would be required in order to expedite that freight by the movement of a truck from Jacksonville to Tallahassee, that we should give up the hauling of that business for the entire distance between Jacksonville and Tallahassee.

Q. How about the business moving into Jacksonville by boat, destined to one of these intermediate points?

A. Moving by boat—Why, we wouldn't have any haul at all. I take that extreme illustration to show how it would affect us. If we hauled it to some intermediate point, the result would be the same. Suppose we transported it

by rail to Live Oak, destined to Tallahassee, and then turned it over to the trucks, is there any good sound economic reason for that? I can't see one. There would be an unnecessary transfer at that point, and it would result in the Seaboard Air Line giving up a substantial part of the [fol. 1305] haul, and as a result a substantial part of its earnings.

Q. Would there be any complications arising from the interchange operation between the rail line and the truck line as compared with the same transfer at a transfer point between one agency of the railroad and another agency of the railroad, with respect to the employees required, particularly as to checking of the cargo, et cetera?

A. Of course it would necessitate a more careful check than you would have to have at present, in order that each company might protect itself. Each would have to be represented by employees charged with the duty of supervising that transfer. Of course it might possibly be handled through joint employees, if that is what you mean.

Mr. Abeles: That is all.

Chairman Matthews: You may cross-examine.

Cross-examination.

By Mr. Walker:

Q. Mr. Stanley, just one or two questions. You spoke of these various orders from the Florida Railroad Commission aggregating this 658 miles of truck operations in Florida?

A. It was not quite that much in Florida. That included some mileage in North Carolina.

Q. Now the majority, in fact all of the orders from the Railroad Commission of Florida, justifying that service, with the exception of the one of July, 1937, which you [fol. 1306] obtained under House Bill 138, is it not a fact that all those orders with that exception were for temporary substituted service, expressly limiting it to such time as an alleged emergency existed?

A. I think that several of these orders contain language providing that it was in substitution of train service, and still left in the bosom of the Commission the right to revise them or review them.

Q. Is it not a fact that the position of the Seaboard Air Line was stated in each one of these applications as desiring it temporarily rather than permanently?

A. No, I don't think that is true; I don't recall the applications.

Examiner Yardley: Mr. Walker, wasn't the evidence given for the purpose of showing experience?

Mr. Abeles: Yes, sir.

Mr. Walker: It was on the theory of taking off of freight trains to meet various emergencies. Our object in going into this is to show that there is no intent on the part of the Seaboard Air Line for permanency of any of this thing, but it is temporary, just so long as independent motor truck competition can be stifled, and then return to rail service.

Examiner Yardley: I understand that this testimony was offered just for the purpose of showing experience.

[fol. 1307] Q. Mr. Stanley, these two applications which are here consolidated are the last of ten applications of like nature before the Interstate Commerce Commission throughout Southern Territory; are they not?

Mr. Abeles: Mr. Chairman, I don't see any relevancy in that. I have no particular objection to disclosing the facts which are already known to the Commission, but I would like to avoid irrelevant matter, and what have other applications now pending before the Commission to do with this case. It is beyond me unless Mr. Walker intends in some way to clear that up, and I don't believe he can do that.

Mr. Walker: That is exactly what I am trying to do, show that it is a correlated operation covering six states. That has been brought out by Mr. Stanley himself, he spoke to the effect that part of this 658 miles was in North Carolina, etc. It is pertinent I think and I would like to have the record so show.

Mr. Abeles: The record shows it already, it is in the Commission's records surely.

Chairman Matthews: I see no objection to Mr. Stanley answering the question.

A. I don't think you went far enough, I think there are some others pending before the Commission than the ten that you evidently have in mind.

Q. They are a part of the one main Seaboard Air Line [fol. 1308] service, and intended as supplemental service thereto, are they not?

A. Only in the territory where the authority is sought to establish truck service.

Q. And that is substantially in six states of the South, is it not?

Examiner Yardley: Hardly six states, it would not be all of the rail line. I think the Commission has these applications on file, and they know what is in the applications, which are more or less before the Commission now as to what should be done.

Mr. Walker: If this joint board can take judicial notice of the ten or more applications, and the way they are correlated together, that is agreeable to me, but I think when the time comes to argue this on brief it will be very important on our part to show that this Commission has no jurisdiction because of their being six states, and according to the motor carrier act one joint board cannot pass on that.

The Witness: May I interrupt just a minute to make a statement which I recall that I overlooked, one operation that I intended to mention.

Examiner Yardley: This is for the purpose of experience and I don't think it is necessary.

The Witness: It is in Georgia, where we have an operation between Ryan and Lyons, Georgia.

Q. At least one of these applications is not local in its [fol. 1309] nature, but is between two states; isn't it?

A. Not as far as Florida is concerned.

Q. I am talking about the ten applications. At least one of them is between points in Virginia and North Carolina, is it not?

A. There are pending now before the Interstate Commerce Commission other applications for authority to operate truck lines. Two or three of those are interstate in so far as they are physically operated in more than one state, North Carolina and South Carolina.

Q. In other words the proposed route physically is between two states?

A. Some of them. None in Florida though.

Q. However, the entire set-up as compared to your united Seaboard Air Line system, is merely supplemental and

auxiliary to the almost national set-up of the Seaboard Air Line set-up, is it not?

A. If you mean by that, Mr. Walker, that it is the intention of receivers of the Seaboard Air Line Railway to gradually couple up this service so that we may have truck service over the entire railroad, absolutely no.

Q. I mean that according to your system of bookkeeping as you just testified, according to the auxiliary nature of this operation as you have testified, from a financial standpoint, and from an operating standpoint, it is actually a part of one united system, is it not?

[fol. 1310] A. From a financial standpoint any money that might be allocated to the trucks for the service that they perform goes into one common treasury, and is kept under one system of account, and from an operating standpoint it has nothing to do with the operation of the Seaboard Air Line as a whole.

Q. The legal title to each one of these certificates, if granted, will be in the present applicant; will it not?

A. Certainly.

Q. So after all it is in effect one financial octopus, if we might say that, operating in six states of the South?

Mr. Abeles: I have no objection particularly if you want to characterize it, except for the implication.

A. No, Mr. Walker, the Seaboard Air Line is a system of railroads operating in six different states. It has various forms of operation. The operation of its rail-bus from Jacksonville to River Junction must be considered solely in respect to the territory that that operation covers. It has nothing in the world to do with the operation of a local train or a through train up in Virginia, and so with these trucks.

Q. If that is true, you are actually proposing to divert freight from the rails to your trucks?

A. Not at all. We propose as far as we can to use the trucks as an auxiliary to our rail service, and I might make this observation, that where the volume of traffic is sufficient there is no form of transportation of which I have [fol. 1311] knowledge that is as cheap as that by rail, but the service to the public can be improved by rail in certain instances by coordinating those two services.

Q. If you had no truck lines in operation throughout this territory you must needs either carry it all by rail or ex-

change with some existing truck line. Now, you have stated that it would be your policy, for reasons satisfactory to you, that it is unwise to interchange with truck lines. Therefore you have to carry it all yourself by rail, or actually divert it to your own trucks. That necessarily follows.

A. We would not necessarily have to divert it or interchange with another truck line. We would probably confine ourselves, under the conditions which you have named, solely to rail, but there are a certain number of shippers in the United States and in this territory that prefer to deal with the railroads rather than independent truck lines, and we feel that as to that class of people it is our duty to give them the very best service we can.

Q. That is a constantly diminishing class; is it not?

A. No, I don't think so, I think it is a growing class, because I think that after all people have actually come to their senses.

Mr. Walker: That is all.

By Mr. Kitchen:

Q. Mr. Stanley, when you speak of coordination of rail and motor carriers, you are referring solely to that co-[fol. 1312] ordination between facilities of your own line, is that right?

A. I am referring to the coordination of those two facilities as they relate to one common management and control.

Q. Then is it your understanding that that coordination shall be within one corporation and no coordination with industry as a whole?

A. I don't know that I know what you mean, Mr. Kitchen.

Q. Did you state that your coordination between rail and motor carrier was confined to the Seaboard Air Line solely?

A. That is what I am speaking of. That is the kind of coordination that I have been endeavoring to tell about.

Q. And that is not the kind of coordination that you are trying to interpret as to the meaning of the Motor Carrier Act; is it?

A. I am not here to interpret the Motor Carrier Act, that is for the board and the Commission to do.

Q. Now, on this so-called coordination, did you or did you not testify that one of the reasons for your not exchanging with truck companies was that you could not see any reason for short hauling your line, is that correct?

A. I said that that would be one of the results of it.

Q. That would be one of the results?

A. Yes.

Q. Now, is it or is it not a fact that your reason for not [fol. 1313] coordinating the transportation facilities of rail and motor vehicles of other carriers other than motor vehicles of your own, is because of the revenue that you wish to save for your company?

A. Why of course, naturally we want to control all of the business which we can, and that is the reason we are trying to give the public the very best service that we can, that is one of the reasons.

Q. Then I ask you is it or is it not a fact that this is an attempt on the part of the railroad again to create a transportation monopoly?

A. Absolutely no, not so far as we are concerned, and if you will let me I will give you a very simple illustration. When I was a boy we used to use old fashioned wood cook-stoves and if we wanted to get any hot water we had to put a tea kettle on the stove and heat it up. Then came along the water-back to that stove, by which we could use just the same instrumentality, the same fire, and the same stove for cooking, but by putting that water-back there, and a tank to hold the water, we could make that one facility give us what we used to have to get through the teakettle. In a way that illustrates what we are asking. Here is our railroad, we have got to operate it. We are charged with the duty of giving to the public the very best service that we can. We are still going to operate the old cook stove, but [fol. 1314] as an adjunct to it we want to put in this water-back and give the people a little quicker service than we used to be able to give them, and I think we are entitled to do that. It is inconceivable to me that the policy of the government would be to destroy the railroads.

Q. Mr. Stanley, did you not testify, or did you testify that the future might develop great transportation of freight by motor vehicles from the territory which your line serves?

A. I don't think I testified to anything like that one way or the other.

Q. I will ask you then what effect if any, if your truck service should prove to be far more efficient than that of the rails, what effect would that have on the rail facilities now existing?

Mr. Abeles: If you want to answer that question all right, but I think it is clearly improper cross examination, and goes beyond the direct testimony that he gave.

Mr. Kitchen: I will withdraw the question.

Chairman Matthews: Read the question.

(Question read.)

A. In what way? Would it cause a cessation or curtailment of operation by rail? I cannot by the wildest stretch of imagination see any possibility of truck service supplanting the railroads. They are the backbone of our transportation system, and they have got to remain here, but I can see the possibility of the coordinated use of rail and truck [fol. 1315] service very much improving not only the service the railroads can render to the public, but possibly their financial condition.

Q. Speaking of finances, just for the record, is the Seaboard Air Line in the hands of receivers now?

A. Yes sir.

Mr. Abeles: The application is by the receivers.

A. (Continued.) It has been since December 23, 1930, with the railroad unable to pay the interest on its bonded indebtedness except to a very limited extent, and we are seeking very earnestly by every honorable means to get out of that receivership.

Q. Now, you testified as to various operations between the State of Florida and other places by motor vehicle, showing the experience of the Seaboard Air Line in the operation of trucks, now, I want to know whether or not that experience with motor vehicle transportation was confined solely to intrastate carriage, or interstate carriage, or both?

A. Both.

Q. Then I will ask you—I will enumerate each of them that you have given. Under Order No. 590 of the Commission, which is from Drifton to Monticello, do you engage in handling interstate freight over that line?

A. I might simplify your question by saying that as to all of these operations except those covered by orders 1025 and 1026, we are handling both interstate and intrastate [fol. 1316] freight.

Q. You are certain of that?

A. Of course I am.

Q. You know it and are positive of that?

A. Yes sir.

Q. You acquired or inaugurated a service by order dated December 27, 1935, and issued by the Florida Railroad Commission, authorizing operations to L. R. Powell, Junior, and Henry W. Anderson, as receivers of the Seaboard Air Line Railway Company, Norfolk, Virginia, for an extension of its certificate of public convenience and necessity No. 83, authorizing the transportation by motor vehicle of less than carload freight between Tampa and Brookville, serving Tampa Shores, Safety Harbor, Bellwood, Coachman, Clearwater, Tarpon Springs, Elfers——

Mr. Abeles: Is it necessary to recite every one of these points, Mr. Kitchen? Can't we save a little time here?

Mr. Kitchen: I have just two or three more.

Q. —New Port Ritchie, Fivay, Greenfield, Loyce, Masury Town and Ayers. Now, you did not commence that operation until after the 27th day of December, 1935; is that correct?

A. We did not commence the change in the route and the extension of the authority which was granted in the original order until after that date.

Q. You say you carry interstate freight over that route? [fol. 1317] A. Yes sir.

Q. Do you have authority from the Interstate Commerce Commission to do so?

A. I think so, under our interpretation of the law. That is one question that is involved in the cases that are already presented to the Commission.

Mr. Abeles: Mr. Chairman, I have not objected to this line of cross examination because I wanted to see where it led to. As the Examiner pointed out, those operations were testified to purely for the purpose of showing the experience of the applicant. Whether they are authorized by the Commission or not, it seems to me is entirely irrelevant.

Mr. Kitchen: Possibly the Commission would think it goes into the fitness of the applicant. I think the Examiner asked whether they would abide by the rules and regulations of the Interstate Commerce Commission——

Examiner Yardley: Have you finished that line of questioning?

Mr. Kitchen: Yes.

Examiner Yardley: Please do not take up any more time with it.

The Witness: It is our understanding of the motor vehicle act that where an operation is confined physically solely to one state, under authority of the State regulatory body, that we have a right to register the State certificate [fol. 1318] with the Interstate Commerce Commission, and we have asked in every one of these cases for authority to register.

Q. Is it or is it not a fact that the Seaboard Air Line does not operate solely within the State of Florida?

A. We operate in six different states.

Q. Then it is not an extension of an operation solely within one state.

A. The physical operations—I don't think we should go into that. I have stated my position. It is for the Commission to determine whether our construction of the law is correct or not.

Q. Mr. Stanley, would your company make interchange arrangements with a truck company?

A. I have already stated that we do not want to do it.

Q. Now, I want to know would you do it?

A. We won't do it unless we are compelled to do it.

Q. And compelled by whom?

Examiner Yardley: He stated that on direct.

Mr. Kitchen: That is all.

By Examiner Yardley:

Q. Mr. Stanley, I understand that freight handled from Jacksonville to Tallahassee or any other point will be delivered at the freight station, and then delivered to the consignee by your pick-up and delivery service?

A. Yes, sir, the movement will be entirely from railroad [fol. 1319] depot to railroad depot, and then of course at destinations it will be handled either by the consignees coming for it or by pick-up and delivery trucks.

By Mr. Bliss:

Q. Would you mind naming the six states in which the Seaboard Air Line operates?

A. Virginia, North Carolina, South Carolina, Georgia, Florida and Alabama.

Q. Isn't there a rather large proportion of your mileage in Florida?

A. Yes.

Q. You twice mentioned railroad bills of lading; is there any difference between a railroad bill of lading and a truck bill of lading?

A. Except that they are issued by two different concerns. I don't know what provisions a truck bill of lading contains. There is a vast amount of difference between a promissory note given by me and one given by you. It may be in the same language, but the signature is different.

Q. You are referring not to the form of the bill of lading but you are asserting that there is a grave financial responsibility?

A. I was emphasizing the fact that so far as the public is concerned our contract is in the bill of lading.

Q. You mean a railroad's signature.

A. Sure.

[fol. 1320] Q. As a matter of fact under this proposed service a shipper, particularly the interstate shipper, say in New York who might forward a shipment destined to Havana, Florida, will not know whether the shipment is handled by rail or truck?

A. And he will not care, all he is interested in is to get it there safely and quickly.

Q. And it will vary sometimes will it not, depending on conditions, the loading, the method of handling, that will vary from day to day?

A. That is what I tried to emphasize in the first instance we are offering here. We are giving the board the benefit of such things as we think will be available on this combined service immediately, but as we study it with a view to expediting freight, what we have in effect today may be entirely different tomorrow.

Q. You mentioned your reasons for not wishing to interchange with independent motor carriers. Do you have an agreement with other rail lines that take that same attitude?

A. No sir, no agreement.

Q. Your company can vary from that policy in a particular case?

A. Well, of course I might make a contract with you tomorrow when I would not consider doing it today. Conditions might change but that is our present policy.

[fols. 1321-1322] Chairman Matthews: Are there any other questions of the witness?

Mr. Abeles: That is all.

(Witness excused.)

Chairman Matthews: How about briefs?

Mr. Abeles: May we have briefs in thirty days?

Examiner Yardley: Is that sufficient time?

Mr. Abeles: It is time enough for me, and I would like to get this thing underway just as quickly as possible.

Examiner Yardley: Briefs will be due thirty days from date, and if anyone desires an extension the request must be in Washington seven days before the brief date.

Chairman Matthews: The board will take the matter under advisement and the hearing is closed.

(Whereupon at 12:30 p. m. on the 20th day of October, 1937, the hearing was closed.)

[fol. 1323] Before the Interstate Commerce Commission

MC 86687 (Sub. 8)

Application of Seaboard Air Line Co. for a certificate of public convenience and necessity, Form BMC 8, authorizing extension of operations as a common carrier by motor vehicle in the transportation of commodities generally, in interstate commerce in the State of South Carolina, between Greenwood and Great Falls, South Carolina, via Chester, South Carolina.

Federal Building, Columbia, S. C.,
October 27, 1937, 10:00 a. m.

Before: Joint Board No. 177, composed of: Hon. J. C. Darby, Member, South Carolina Public Service Commission, Columbia, S. C., Chairman.

Present: Hon. W. W. McCaslin, Post Office Building, Bureau of Motor Carriers, Charlotte, N. C., Examiner.

Appearances:

Chas. T. Abeles, Seaboard Air Line Ry. Bldg., Norfolk, Virginia, appearing for applicants.

[fols. 1324-1325] Proceedings

Chairman Darby: The Interstate Commerce Commission has set for hearing at this time and place Docket No. MC. 86687, Sub. 8, application of the Seaboard Air Line Railway Co. (Legh R. Powell, Jr., and Henry W. Anderson, Receivers), a corporation, of S. A. L. Railway Bldg., Norfolk, Virginia, for a certificate of public convenience and necessity, Form BMC 8, authorizing extension of operations as a common carrier by motor vehicle in the transportation of commodities generally, in interstate commerce, in the State of South Carolina, between Greenwood and Great Falls, South Carolina, via Chester, South Carolina.

The Joint Board requests Mr. W. W. McCaslin, who has been assigned to assist and advise the Joint Board in this proceeding, assist in developing the record.

The Examiner: No free copies of the transcript of testimony will be distributed in this case. Persons desiring transcript should arrange with the reporter to obtain same. The Commision requires that all persons appearing in a representative capacity in these cases, unless they be officers or employees of the corporate party, members of a partnership, or unless they are representing themselves, shall be admitted to practice before the Commission before they can be allowed to appear.

The Chairman: Who appears for the applicant?

[fol. 1326] Mr. Abeles: Chas. T. Abeles, of Norfolk, Virginia.

The Chairman: Are there any interveners?

(No response.)

Mr. Abeles, you are admitted to practice?

Mr. Abeles: I am.

The Chairman: You may proceed.

Mr. Abeles: Mr. Chairman, before proceeding with the evidence I should like to make a preliminary statement. The application here requests a certificate of public convenience and necessity under the Motor Carrier Act of 1935, authorizing the operation for the transportation of property, mail and express between Greenwood, S. C. and Great Falls, S. C. It is the position of the applicant that since the route proposed is confined within the State of South Carolina and neither crosses nor reaches a state boundary, that under the provisions of Section 206 of the Motor Carrier Act no certificate of public convenience and

necessity is required. The application for a certificate has, therefore, been made at the—with a reservation which I now desire to state, that no such certificate is required, but that under the regulations of the Commission all that the applicant is required to do is register such application. I may state that that contention has been made in previous cases which are now pending before the Commission and that I assume that such disposition may be made of that [fol. 1327] contention in those previous cases, will be made applicable likewise to the case here under consideration.

I should have stated previously that we have a certificate from the State of South Carolina authorizing the operation for which interstate authority is here requested, in intrastate commerce.

The Examiner: However, Mr. Abeles, might I inquire at this point, there is no contention by the applicant, is there, that there will not be actual physical handling of interstate shipments although they will be handled only intrastate insofar as this operation is concerned?

Mr. Abeles: Insofar as the transportation by highways by truck is concerned, that is correct. They will be handled by the truck, shipments moving continuously in interstate commerce, that is, the origin or destination of which is outside the State of South Carolina.

With that preliminary statement, I am ready to proceed, Mr. Chairman. I will call Mr. Bowen.

J. H. Bowen was sworn and testified as follows:

Direct examination.

By Mr. Abeles:

Q. Please state your name, residence and occupation.

A. J. H. Bowen, Superintendent, Georgia Division, Atlanta, Ga.

[fol. 1328] Q. What does the Georgia Division include, Mr. Bowen?

A. The mileage from Birmingham, Ala. to Monroe, N. C. including the branches.

Q. Then the line between Greenwood and Great Falls is under your jurisdiction?

A. Yes, sir.

Q. Mr. Bowen, how long have you held this position?

A. Since August 25, 1936.

Q. How long have you been with the Seaboard Air Line Railway in various capacities?

A. Thirteen years.

Q. As operating employee or official?

A. In the operating department.

Q. Then you are thoroughly familiar with the operating conditions of the territory covered by this application?

A. Yes, sir.

Q. Will you now state what service we are proposing to establish in this proceeding?

A. Trucking service between Greenwood, Chester and Great Falls, to operate on turn-around basis between Greenwood and Great Falls.

Q. What is the approximate one-way passage?

A. 100 miles.

Q. Does the route parallel the rail line throughout and if not explain the points of digression?

[fol. 1329] A. The route parallels the line between Greenwood and Chester on South Carolina Highway No. 7 and branches off at Chester Highway No. 97 which does not parallel our line to Great Falls, but there are no intermediate stops between Chester and Great Falls.

Q. Does the Seaboard reach Great Falls?

A. Yes, sir.

Q. Where does the Great Falls branch diverge from the main line?

A. At Catawba, South Carolina.

Q. Catawba is approximately how far from Chester?

A. 20 miles north of Chester.

Q. Do I understand that there is no highway paralleling our rails between Catawba and Great Falls?

A. No, there is not.

Q. In order to reach Great Falls by truck it is necessary to leave the rail route?

A. Yes, sir.

Q. Mr. Bowen, I'm handing you a map and should like you to state whether it shows in black, correctly, the routes of the proposed truck service?

A. You mean in red, don't you?

Q. I mean in red, ye-, sir.

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A. You mean in red, don't you?

Q. I mean in red, ye-, sir.

Mr. Abeles: Mr. Chairman, I should like to offer this as Applicant's Exhibit No. 1.

[fol. 1330] (Exhibit No. 1, Witness Bowen, is marked for identification.)

The Chairman: Without objections, it will be received in evidence as Exhibit No. 1.

(Exhibit No. 1, Witness Bowen, is received in evidence.)

By Mr. Abeles:

Q. Will the proposed truck service serve any station not reached by the Seaboard rails?

A. No, sir.

Q. What class of traffic will be handled by these trucks?

A. Less than carload freight only.

Q. I understand that this is exclusively station to station service?

A. That is correct.

Q. By station to station I mean stations serviced by the Seaboard rails?

A. Yes, from *to* depot to depot.

Q. Now will you describe generally the purpose which we have in mind in inaugurating the proposed truck service?

A. By the inauguration of this truck service we expect to expedite the handling of l. c. l. freight to and from all stations between the points named, Greenwood and Great Falls, due to the fact that our train service cannot be so arranged that it will give the smaller towns the same service as the larger points. In other words we would give the points between these stations overnight service on an ex-[fol. 1331] pedited service of from 12 to 24 hours. We would also save some operating expenses due to not having to stop the local freight at some stations to load and unload l. c. l. merchandise. This would also enable us to do certain station switching and handling of carload shipments earlier at the stations than we are now doing.

Q. Having generally described what we expect to accomplish by the establishment of this service, Mr. Bowen, I should like to have you explain in some detail how these objectives will be reached. First, will you state the local train service now performed over these routes.

A. At the present time we are operating the local freight southbound daily, except Sunday, which leaves Monroe

around 10:00 a.m. and reaches Greenwood around 10:00 p.m. We have no local northbound service on this route that loads or unloads l.c.l. merchandise. This necessitates merchandise being handled on train No. 82, which is a through northbound train but sets out cars at certain set-out points and is worked back to local delivery points by the Southbound local 61.

Q. In other words on local traffic moving northbound, do I understand correctly that there was to be a back haul on the local southbound No. 61?

A. Yes, sir. That is correct.

Q. Will you now state the proposed schedule on which the [fol. 1332] truck service will operate?

A. This truck will leave Greenwood at 5:30 a.m. and arrive at Chester 10:30 a.m.; leave Chester 11:00 a.m., arrive Great Falls 12:00 noon; leave Great Falls 1:00 p.m.; leave Chester 2:15 p.m. and arrive Greenwood 5:30 p.m.

Q. I wish you would now explain the improvement in the service on l.c.l. shipments by a specific example of an l.c.l. shipment which will be handled by truck.

A. As an illustration, merchandise from Atlanta for Cross Hill, S. C., a station 15 miles north of Greenwood. This shipment now leaves Atlanta at 10:30 p.m. on train No. 12, which is a mixed passenger train, and arrives at Clinton at 4:44 a.m., a set-off point for train No. 12, and is returned to Cross Hill by the local freight which arrives at Cross Hill around 7:00 p.m., which is of course too late for that day's delivery.

Q. I wish you would state whether Clinton is north or south of Cross Hill?

A. Clinton is north of Cross Hill.

Q. So this is a specific example of a movement which has to be back hauled through the use of train service alone?

A. That is right.

Q. How would this shipment be handled if the proposed truck service were in operation?

A. This shipment would be loaded on Greenwood, S. C. and would leave Atlanta at 10:30 p.m. on train No. 12, ar- [fol. 1333] riving at Greenwood at 3:50 a.m.; would be handled by the truck leaving Greenwood at 5:30 a.m., that morning, arriving at Cross Hill at 6:00 a.m., which would effect a saving of 24 hours.

Q. Would there be similar savings in the delivery of l.c.l. shipments at all points on the proposed truck routes?

A. Yes, sir. With our present service the local southbound train which makes l.c.l. deliveries on this route does not reach the stations until late afternoon.

Q. Whereas by truck when would the deliveries be made?

A. In the morning.

Q. Now, will you give an example of a l.c.l. shipment moving southbound?

A. Shipments that are now being handled to this division from the north are set out at Chester by train No. 83 at around midnight. These shipments are transferred to the local freight car and are forwarded south by the local freight leaving Chester around 2:30 p.m. and are worked.

Q. Two-thirty p.m. when?

A. The next day at 2:30 p.m., and are worked at the various stations between Chester and Greenwood, Deliveries generally being too late for that day's business.

Q. How would these shipments be handled with the aid of the truck service?

A. All shipments received from the north would be forwarded to Greenwood, S. C., on trains Nos. 85 and 83 [fol. 1334] No. 85 would handle direct to Greenwood l.c.l. shipments from Portsmouth and Richmond arriving at Greenwood at 9:45 p.m.

Q. Richmond, Virginia?

A. Yes, Richmond, Virginia. Arriving at Greenwood at 9:45 p.m. Other shipments from various other northern points would arrive at Greenwood on through train No. 83 at 4:30 a.m. The cars containing this merchandise would be worked and forwarded north by truck leaving Greenwood at 5:30 a.m. which would expedite the arrival and delivery of this merchandise at least 24 hours.

Q. Up to this point, Mr. Bowen, we have been discussing inbound movements into the local territory. Can you give us an example of the improvement in service on outbound movements?

A. At the present time l.c.l. shipments are moved southbound by the local freight regardless of destination. For example: a l.c.l. shipment from Carlysle, S. C., to Richmond, Va., would now be moved by the southbound local No. 61 to Greenwood, which is the concentrating point of all merchandise in this territory and would be moved from Greenwood by No. 82 at 1:45 a.m., that night if No. 61 arrived at Greenwood in time for the cars to be worked and

if not the next day by train No. 88, which leaves Greenwood at 4:00 p.m., arriving at Hamlet, N. C. around 5:00 the next morning and Richmond the following morning at 6:00 a.m.

Q. You say the next morning, you mean the second morning?

[fol. 1335] A. The second morning.

Q. That makes it arriving at Richmond when?

A. The third morning.

Q. How would the same shipment be handled by truck service?

A. This shipment would be carried by truck from Carlysle to Greenwood, arriving there at 5:30 p.m. which would enable the concentrating point to handle this shipment and forward direct to Richmond on train No. 82, departing from Greenwood at 1:45 a.m. and arriving at Richmond the second morning at 6:00 a.m., or a saving of 24 hours when the Greenwood schedule which connects with No. 82 is missed.

Q. I understand from the explanation you have just made, Mr. Bowen, that the saving you have described will be effective when the connection between train No. 61, between local southbound train No. 61, and northbound through train No. 82?

A. That is correct.

Q. How often is that connection missed now as a practical matter, Mr. Bowen?

A. We miss it about three nights in the week.

Q. And on those three nights the use of truck service would advance the deliveries at Richmond and other northern points by about 24 hours?

A. Yes, sir.

Q. Please take now an outbound shipment moving south to Atlanta or points beyond.

[fol. 1336] A. A shipment now forwarded from Carlysle destined to Atlanta or beyond would be handled by the local freight leaving Carlysle around 2:30 p.m. arriving at Greenwood around 10:00 p.m. too late to be transferred to and handled on train No. 85 that night. Therefore, this shipment would not leave Greenwood until the next morning on train No. 83 at 4:30 a.m. arriving at Atlanta at 3:30 p.m. too late for that day's delivery. If this shipment were handled by the truck it would leave Carlysle around 3:00 p.m. arriving at Greenwood 5:30 p.m. and would be for-

warded on train No. 85 from Greenwood at 9:45 p.m. arriving at Atlanta 4:30 o.m. or a saving in delivery of approximately 24 hours.

Q. Now, you mentioned specifically Carlsyle, Mr. Bowen. Is this typical of other stations in this local territory?

A. It is.

Q. And would the same improvement which you have just described with reference to Carlsyle also be effective so far as other local stations on this route are concerned?

A. It would.

Q. Mr. Bowen, do l.c.l. shipments move from this territory in substantial volume to points beyond the Seaboard?

A. Yes, through connections at Atlanta and Birmingham in package cars loaded for points beyond.

Q. Do I understand that the movement of l.c.l. shipments [fol. 1337] handled in these cars will be expedited in the manner you have just described with regard to shipments from Carlysle?

A. Yes, by handling these l.c.l. shipments on the truck arriving at Greenwood at 5:30 p.m. we could forward them on train No. 85 leaving Greenwood the same evening at 9:45 p.m.

Q. Will any benefit be derived from relieving your local southbound train No. 61 of the loading and unloading of l.c.l. shipments at local points on this route?

A. Yes, it will enable us to do the switching and picking up from the various stations assuring the arrival of train No. 61 at Greenwood early enough to make the connection with train No. 85 with the southbound shipments which train departs from Greenwood at 9:45 p.m. This connection is now frequently missed.

Q. Then the carload movements carried by train No. 61 will this be advanced 12 hours by making connection with train No. 85?

A. Yes, sir.

Q. About how much?

A. 12 or 24 hours.

Q. From what you have said, Mr. Bowen, do I understand that practically all of the inbound and outbound l.c.l. movements from this territory will be materially expedited through the use of the proposed truck service.

[fol. 1338] A. Yes, sir, it will in practically every instance be advanced by not less than 24 hours.

Q. Would it be physically possible, Mr. Bowen, to accomplish this same improvement by additional train service?

A. It would be physically possible to do almost anything by additional train service, but the cost of trains would, with the limited volume of available traffic, be prohibitive. By the proposed service we will accomplish the improvement with a maximum of efficiency and at a minimum cost.

Q. With your knowledge of the origin and destination of the l.c.l. traffic moving to and from the points to be served by the proposed truck service what proportion of this traffic would you say is interstate and what proportion intra-state?

A. I would say that approximately 80% is interstate and 20% intra-state.

Q. Mr. Bowen, have you any basis for estimating the approximate cost of this truck service?

A. I have investigated the cost of operating the truck which our company has operated for a number of years between Hamlet and Monroe and find that it is approximately 15.3¢ per mile. The truck which we propose to use in this operation is slightly smaller than that used in the Hamlet-Monroe service, consequently I estimate that the cost of the Greenwood-Great Falls truck will not exceed 15¢ per mile. [fol. 1339] On this basis the approximate monthly cost of operating this service would be about $800.00. This covers wages, fuel, supplies, insurance, taxes, depreciation and all other costs incident to the operation.

Q. Mr. Bowen, will any savings in operating cost be made through the elimination of train stops at Local stations?

A. Yes, there will be some savings. I estimate a saving of approximately two tons of coal per day, which at the present time amounts to $5.84 per day or approximately $150.00 per month.

Q. Do you propose to curtail train service or reduce the number of employees as the result of this service?

A. No train service will be curtailed or man power reduced.

Q. Will you have to employ additional men for the operation of the truck?

A. Yes, for the operation of the truck, additional men.

Q. So far as it concerns the effect upon employment there will be an increase instead of a decrease?

A. That is correct.

Q. You might explain, Mr. Bowen, why it will be impossible why we do not contemplate the reduction of any train service on this route; or why such a reduction would be impossible and impracticable?

A. Due to the picking up and setting out solid cars for the intermediate local points together with the switching at the various points along the line.

[fol. 1340] Q. Could the truck service as a practicable matter substitute for train service for the handling of carload shipments?

A. No, sir.

Q. That is very obvious. Just one other question, Mr. Bowen. Is there any difference now between the service rendered certain points on the route covered by this application and other points that is rendered by train now. Is there a quality of service between all of the points on this route at the present time?

A. Yes, sir.

Q. Are there certain points which are so-called set off points?

A. Yes, we have three points that have set out merchandise cars.

Q. Are deliveries of l. c. l. merchandise at those points made more expeditionally than at other points along this route?

A. Yes, sir.

Q. Then it wasn't entirely accurate to say the service at all points was equal?

A. That is right. I didn't understand.

Q. You might explain just what the effect of this proposed truck service on that particular situation will be?

A. We propose, of course, to have in these set out cars l.c.l. shipments for the smaller places that would be expedited by the trucks. And it is our desire to put the smaller town on a parity with a larger place, to give him practically the [fol. 1341] same service that everybody gets in this territory.

Mr. Abeles: That is all, Mr. Chairman.

The Chairman: Any further questions? Mr. Abeles, this is your operating witness?

Mr. Abeles: Yes.

The Chairman: Mr. Bowen, you stated in estimating the cost of operation that experience showed that the cost of

operating the Hamlet-Monroe truck amounted to approximately 15.3¢ per mile?

The Witness: Yes, sir.

The Chairman: You mentioned insurance as one of the elements of cost. Do you carry insurance on that truck or are you self insurers?

The Witness: Pardon me, but I just have memorandum of the Superintendent.

(Discussion off record.)

The Witness: We carry insurance on all, so I understand, on all our truck operations.

The Chairman: By independent insurance company?

The Witness: Yes.

The Chairman: Are you familiar with the insurance regulations of the Interstate Commerce Commission?

The Witness: No, sir.

The Chairman: You will be in charge of this operation entirely, I suppose?

[fol. 1342] The Witness: Yes.

The Chairman: You will familiarize yourself with those requirements before you begin operations?

The Witness: Yes, sir.

The Chairman: You can obtain copies of those regulations from the Interstate Commerce Commission. You didn't have in that cost figure an allocation of general overhead expenses in this truck operation such as cost of soliciting freight, supervisory duties of general officers, and things of that sort?

The Witness: No, sir.

The Chairman: That is added cost estimate, is it?

(Discussion off record.)

The Chairman: 15.3¢ per mile does not necessarily reflect all cost of that operation, cost of officers' salaries, etc., are not all allocated to that particular truck operation?

The Witness: No.

The Chairman: So if this were an independent operation and the supervisory officials and the cost of soliciting traffic and preparing tariffs and various overhead costs were allocated they were chargeable entirely to the truck operation then the cost would be somewhat higher, would it not?

The Witness: Yes, sir, I imagine so.

The Chairman: I believe you stated you are in charge of [fol. 1343] this operation or you will be in charge of this operation. Are you familiar with the Motor Carriers Safety regulations of the Interstate Commerce Commission?

The Witness: Not entirely familiar, no, sir. I have read some of it, but I am not entirely familiar. I expect to put myself that way.

The Chairman: You will obtain copies immediately from the officials at Washington and familiarize yourself with the requirements set forth?

The Witness: I will, yes, sir.

The Chairman: I suppose you do know the minimum age for drivers employed?

The Witness: Yes, sir, I have that information.

The Chairman: I want to ask you, Mr. Bowen, in regard to the part of this line between Chester and Great Falls. Are there any towns or points you desire to serve at all between those points?

The Witness: Nothing between Great Falls and Chester, no, sir.

The Chairman: Would there be any objections to a limitation there?

Mr. Abeles: None at all, Mr. Chairman. It is our purpose and desire to serve only points served by rail.

(Discussion off record.)

The Chairman: Now this parallels what is the main line [fol. 1344] of the Seaboard from Greenwood to Chester, does it not?

The Witness: Yes, sir.

The Chairman: And it runs from Chester to Great Falls, not paralleling any line of the railroad and Great Falls is apparently the terminus of a branch line which leaves the main line around Catawba?

The Witness: That is correct.

The Chairman: And terminates at Great Falls?

The Witness: Yes.

The Chairman: Will there be any service to towns which from the map appear to be some little distance from the highway, such as Renno and Leeds?

The Witness: Yes, sir.

The Chairman: The truck will run in there?

The Witness: Yes, sir.

The Chairman: And serve them at your stations?
The Witness: Yes, at the station depot.
The Chairman: I have no further questions. Are there any further questions?
Mr. Abeles: Do you have any further questions?
The Chairman: No, sir.

By Mr. Abeles:

Q. Mr. Bowen, in regard to the questions concerning safety regulations it is our purpose, of course, to comply strictly with all mechanical and other requirements of the [fol. 1345] Interstate Commerce Commission in the operations of these trucks?
A. It will.
Q. You either have or will familiarize yourself thoroughly with those so you are prepared to supervise the operation of these trucks in that respect?
A. Yes, sir.

The Chairman: On your division or the portion of the railroad over which you have supervision as to operation is there any truck operation now being conducted?
The Witness: Well, not that I know of, anywhere that serve in the way this truck will serve.
The Chairman: There is no highway service in your territory that is under your supervision?
The Witness: No, sir, there is not.
The Chairman: Any further questions?

(Witness excused.)
(Discussion off record.)

C. C. McAliley was sworn and testified:

Direct examination.

By Mr. Abeles:

Q. Will you please state your name and residence?
A. C. C. McAliley, Chester, South Carolina.
Q. In what business are you engaged?
[fol. 1346] A. I am engaged in farming, ginning, seed business and merchandise.

Q. Mr. McAliley, you have heard the testimony as to the service which the receivers of the Seaboard are proposing in this case. Will you state your attitude toward this proposal both with regard to your own business and others of which you have personal knowledge in and around Chester.

A. I will just state that as an individual and as a business man and as representing other business interests that anything in this line that would not interfere with the business of other people and that would promote the business of merchandise by giving them much improved service, would be received with open arms by all that are interested.

Q. Is the expediting movement of l. c. l. shipments of importance to merchants in your particular community or territory today?

A. Yes, sir. I would say according to the changed mercantile conditions where merchants now are buying in smaller quantities than was customarily the truth years ago, that 12 hours or 24 hours, would mean quite a help in meeting and competing with other business organizations.

Q. Will you explain a little more fully what you have referred to as the changed conditions?

A. I mean something like a period of before 1929 and 1930 that merchants bought in large quanties, and now they [fol. 1347] buy more in a hand to mouth, and it brought about by a change of prices being caught with high priced goods on hand. Then also on account of contracts of credit by the banks.

Q. In other words they can't carry large inventories today as they used to be able to?

A. Yes, sir.

Q. That means what?

A. It means quick turnovers, smaller purchases.

Q. They are not so apt to have stock, but what is required to meet their orders?

A. Yes, sir. When they want it they want it as quickly as possible.

Q. You stated that you were in the cotton compress business?

A. Cotton ginning and seed buying.

Q. Do you have occasion to buy or order machine parts for your equipment?

A. Yes, sir, occasionally.

Q. For repair work?

A. Yes, sir.

Q. I suppose you want that just as quickly as you can possibly get it?

A. Yes, sir.

Mr. Abeles: That is all.

The Chairman: Any further questions? Do you know about the way truck service is now in operation in and [fol. 1348] around from Chester to points that will be served by this proposed truck service or from those points to Chester at present?

The Witness: Do you mean would this compete with any present?

The Chairman: Yes.

The Witness: Not to my knowledge, sir.

By Mr. Abeles:

Q. Regarding that subject, are there any trucks used in this territory for the delivery of merchandise to retail merchants in this territory, do you know, other than the commercial for hire trucks to which the examiner referred, any other lines, Motor Express lines that run perpendicular to this line proposed that is in northerly and southern directions?

A. Yes.

Q. But do wholesalers from any of these wholesale points deliver to merchants in this territory, so far as you know?

A. Yes. Wholesalers at Chester deliver all around, and the points I would say they deliver wherever their business is and whatever line they may have the goods sold under.

Q. They are using their own private individual trucks?

A. Yes, sir, their own individual trucks.

Q. So far as you know there are no commercial trucking for hire concerns operating?

A. On this line, paralleling this line to my knowledge there are not.

[fol. 1349] The Chairman: Are there further questions?

(No response.)

The Chairman: You may be excused.

(Witness excused.)

Z. H. SUBER was sworn and testified:

Direct examination.

By Mr. Abeles:

Q. Mr. Suber, will you state your name, residence and occupation, please?

A. Z. H. Suber, Whitmire, South Carolina, farmer and real estate.

Q. Were you a member of the legislature at one time, Mr. Suber?

A. Yes, sir. I served six years.

Q. In the house or in the senate?

A. Yes, sir, in the house.

Q. Whitmire, Mr. Suber, town is one on the route proposed for this truck operation is it not?

A. Yes, sir.

Q. Now, will you state as a business man what your view in this proceeding may be?

A. Well, as I see it, not from my own experience, because I'm not running a business at Whitmire. I'm trying to help those who are running a business there.

[fol. 1350] Q. I might interrupt you to ask whether you own business property or property for sale in Whitmire?

A. Yes, sir. I own considerable property according to the size of the town in Whitmire.

Q. Store property, or property used for store purposes?

A. Yes, sir. I own ten store buildings in the town.

Q. Of course, you are dealing with your tenants. Have you familiarized yourself with the conditions under which they operate very closely?

A. Yes, sir.

Q. Now, proceed with your statement, Mr. Suber?

A. Well, knowing the town and the railroad facilities there as I do, because I have been living there ever since the railroad was put through there. Well, as I see it this proposed truck line would be a great saving to the people doing business in the town, because it will save time as Mr. Bowen has stated. I don't know those schedules. Now, it has to lay over in Greenwood a good while before it comes back. It comes from the north and goes to Greenwood and then it has got to come back to Whitmire.

Q. Now, assuming that the service, that the delivery service of l. c. l. shipments to Whitmire and other points on the

proposed route will be advanced some 24 hours. Will you explain for us what advantage that will be to those engaged [fol. 1351] in retail business in your community?

A. Well, it will be one advantage. It will be they buy in small quantities. They can get the stuff in there. It will give them the same advantage of getting stuff in there as quick as the chain stores. Now chain stores run big trucks. They will load up in one town, collect at Spartanburg or wherever their warehouse is and they will come right on through all these little towns, Whitmire not excepted, and they will put off here and there. Well, that is probably the same stuff that the individual merchant has got bought. They get theirs 12 or 24 hours before the individual merchant gets his.

Q. That is the chain store does?

A. Yes, sir.

Q. Is that an important advantage to the chain store?

A. I think so, sir.

Q. In your judgment will that be overcome by the improvement in service which has been testified to here this morning?

A. To some extent, yes, sir. These chain stores own their own truck.

Q. Then, of course, the smaller merchant can't afford to operate his own truck?

A. No, sir.

Mr. Abeles: That is all, Mr. Suber.

The Chairman: Any questions?

[fol. 1352] Mr. Abeles: No, sir, that is all.

(Witness excused.)

(Discussion off record.)

D. C. Robertson was sworn and testified:

Direct examination.

By Mr. Abeles:

Q. Will you please state your name, residence, and occupation?

A. D. C. Robertson, Great Falls, South Carolina, Republic Cotton Mills, in charge of shipping.

Q. You have heard the testimony this morning, have you not, regarding the service which is proposed by the receivers of the Seaboard and improvements which it is expected to accomplish?

A. I have.

Q. Now, will you state from the standpoint of yourself and your community your attitude toward this proposed service?

A. Well, Great Falls as you know is rather isolated anyhow. It is the terminus of the branch line of the Seaboard and we have limited railroad and highway service for that matter. And I feel that it would be a benefit to the merchants by at least where I understand the truck will get in there around 12 o'clock whereas we will get delivery the next morning.

Q. 12 o'clock noon as compared with the following morning?

[fol. 1353] A. Yes.

Q. Which is approximately 24 hours saving?

A. Approximately so, yes.

Q. Now, from your knowledge of business conditions in your community would you say that that was a substantial help or would be a substantial help?

A. I should think it would, yes, sir.

Q. You are quite familiar with the conditions in Great Falls, I presume?

A. Yes, sir.

Mr. Abeles: I think that is all.

The Chairman: Any other questions? You may be excused.

(Witness excused.)

The Chairman: We will take five minutes recess.

(A short recess was taken.)

T. D. Copeland was sworn and testified:

Direct examination.

By Mr. Abeles:

Q. Please state your name, residence and occupation?

A. T. D. Copeland, Clinton, South Carolina, farming and merchant.

Q. Are you in the mercantile business and farming in Clinton?

[fol. 1354] A. Clinton, yes, sir.

Q. Mr. Copeland, you heard Mr. Suber's testimony, did you not?

A. Yes, sir, I did.

Q. Will you state your position regarding Mr. Suber's testimony as to the advantage of it from the standpoint of small inventories of the service which the receivers of the Seaboard are proposing to give in this case. That is Mr. Suber testified that today retail merchants are carrying small inventories and for that reason expedited deliveries of their merchandise is of substantial importance to them. Is that correct from the standpoint of you as an active retail merchant?

A. I think he covered the ground very well indeed. Especially since not being a merchant. I think he did extra well.

Q. What he said is correct as a matter of fact?

A. I think so, yes, sir.

Q. Regarding your competition with chain stores, Mr. Copeland, have you any chain store merchants operating in Clinton?

A. Several.

Q. Do you find that such stores have advantage over you as an independent merchant?

A. We think so, yes, sir.

[fol. 1355] Q. Do you feel that that advantage will be largely overcome if you can get the improved service which has been testified to here this morning?

A. I think it will be a big help, yes, sir.

Mr. Abeles: That is all.

The Chairman: Any further questions?

(No response.)

The Chairman: If not, you may be excused.

(Witness excused.)

W. L. Stanley was sworn and testified.

Direct examination.

By Mr. Abeles:

Q. Mr. Stanley, please state your name, residence and occupation?

A. W. L. Stanley, Atlanta, Georgia, Vice-President of the Seaboard Air Line Railway Company and chief public relations officer for the receivers.

Q. Mr. Stanley, will you explain your association and part in the development of Motor Carrier Service by the receivers of the Seaboard Air Line?

A. I have in connection and cooperation with other officers of the railroad been charged with the duty of studying Seaboard territory to determine what sections of it might be benefited by the auxiliary use of motor vehicles in the handling of l.c.l. freight.

[fol. 1356] Q. Then you are familiar with the kind of policy and plan of policy and purpose of the Seaboard in establishing this type of service?

A. I am.

Q. Will you explain in your own language what that plan, policy and purpose may be?

A. The primary purpose is to expedite the movement of l.c.l. freight delivered to us by the public for transportation. The service that is proposed is largely a coordinated service between rail and motor vehicle. That is to say that in the great majority of instances freight will be handled partly by rail and partly by motor vehicle. As is illustrated in this case developed by the testimony of our Superintendent, Mr. Bowen, freight moving from Atlanta, Georgia, destined to some point between Greenwood and Great Falls would move by rail from Atlanta to Greenwood, then be transferred from the cars to a truck at that point, and moved to destination by highway in motor vehicles. As a result freight to these smaller stations through that operation will be greatly expedited and from 12 to 24 hours in the movement by train saved through this operation. In addition to that some of the other benefits that we see will flow to the railroad and to the public is that our local freight trains will be relieved of the duty of loading and unloading l.c.l. freight at stations. There time will be devoted to the switching of industries and to [fol. 1357] the handling of carload freight to these smaller points. Thus not only expediting the movement of l.c.l. freight but also the movement of carload freight as well. In addition to that there are some instances where we can operate our local freight trains at night. Whether that will be done in this territory, I'm not prepared to say; but where it is possible it will result in the industries be-

ing switched by these local freights during the night time when they are not in operation and when the operation of these industries will not be disturbed by that switching: I simply mentioned that as few of the illustrations that indicate the degree in which our service to the public will be improved by this coordinated rail and truck service.

Q. Is there any purpose, Mr. Stanley, of the establishing of an independent highway trucking service. I say independent in the sense of independence of our rail transportation?

A. Absolutely no. There is no form of transportation of which I have knowledge that is as cheap as that by rail provided the volume of business to be handled is sufficient. I cannot conceive of any circumstances or conditions that would permit of the institution of highway service for rail service, and therefore our purpose——

Q. You mean entirely?

A. Entirely. And our purpose is to simply use it as supplemental to the rail service and as auxiliary to that service.

[fol. 1358] Q. I see. Have the receivers of the Seaboard Air Line been authorized to perform this service, Mr. Stanley?

A. Yes, by the United States Federal Court for the Eastern District of Virginia.

Mr. Abeles: Mr. Chairman, I should like to offer as an exhibit the order of the District Court of the United States of Virginia, entered July 15, 1937, authorizing the receivers to undertake and perform motor carrier service of the type here contemplated. The order speaks for itself. These copies are certified.

The Chairman: It will be received in evidence as Exhibit No. 2, without objections.

(Exhibit No. 2, Witness Stanley, is received in evidence.)

The Witness: May I be permitted to make one comment about the traffic in this territory?

The Chairman: Yes, sir, surely.

The Witness: I think an examination of this map that has been filed as exhibit No. 1, together with my knowledge of the territory in between Greenwood and Great Falls, would indicate that the business moving into that territory comes largely from the south, from Atlanta and Birming-

ham, and the west on the south. And from Richmond, Philadelphia, New York and Charlotte on the north and east; and that it is largely interstate. Now, Mr. Bowen [fol. 1359] has testified that we have what we call break bulk points. That is points where cars are unloaded and the business distributed from them.

Q. I think that is what he referred to as set off points?

A. Yes, at Greenwood, at Clinton, and one or two other points. Now this freight that I have just referred to interstate that comes from Atlanta and Birmingham in the west on the south, and from Philadelphia, Richmond, and Norfolk on the east. It all comes to one of those break bulk or set off points and it would be handled for the greater part of the distance by rail, and from comparatively short parts of the country by this truck. We have not in this territory nor could we afford to have sufficient number of local freights to accomplish the same expedited service that we can get from this coordinated rail and truck service which has been testified to here.

Q. In other words, as Mr. Bowen states, what we are proposing in this proceeding can only be accomplished efficiently and economically in the way we are proposing to provide it?

A. Correct.

Q. Mr. Stanley, what have you to say with regard to the experience of the Seaboard in operating motor carrier service of this type in the past?

A. I didn't catch the first part.

(The question is read.)

A. We have had considerable experience in the operation of these truck lines. The first service that we estab- [fol. 1360] lished was five or six years ago between Hamlet-Monroe, North Carolina. Then it was followed beginning about the year 1933 or 1934 with the establishment of several truck operations from time to time in the state of Florida. We also have one in the state of Georgia that has been in operation for about two and a half years that being between Rhine and Lyons, Georgia. So, we have some eight or ten of these operations extending that have been in existence from one to five or six years and none of them has ever been discontinued.

Q. What is the approximate total mileage now operated by the receivers of the Seaboard?

A. About 450 miles.

Q. You stated that none of them had ever been discontinued. Have they satisfactorily fulfilled the purpose for which they were established?

A. Yes, and which purpose was that that I testified to a little while ago.

Q. They are all of the same type as that which is here proposed?

A. Yes. I might add this in order to make the record perfectly clear. It never has been the intention of the receivers of the Seaboard to get away from the territory of our rail lines. We try to confine these operations as near as it is possible to do so to highway paralleling our rail lines and we have never sought nor do we now serve [fol. 1361] any community which is not served by our rail lines.

Q. So there is involved in this service no element of the invasion of territory which has not already been developed and served for sometime by the rails of the Seaboard.

A. We serve the territory which has been developed by our rail lines and which is served today by our railroads.

Q. Mr. Stanley, the motor carrier act of 1935 required the commission to find among other things that the applicant is fit, willing and able to perform the service proposed. What have you to say regarding the financial ability of the receivers of the Seaboard to conduct the services here under consideration?

A. That it is able to financially undertake and maintain this service, I think, is demonstrated by the fact that for the year 1936, the railway operating revenues of the Seaboard were $38,346,055.37. The net railway operating income that is that sum remaining after the payment of operating expenses taxes, and joint facilities and equipment and rents was $2,920,582. The gross income was $3,276,751.23.

Q. From what were you reading those figures?

A. Reading from the annual report of the Seaboard Air Line Railway for the year ending December 31, 1936.

Q. On what page is that?

A. On page three.

Mr. Abeles: We offer in evidence the annual report just [fol. 1362] referred to by the witness.

The Chairman: This will be received as Exhibit No. 3 without objections.

(Exhibit No. 3, Witness Stanley, is received in evidence.)

By Mr. Abeles:

Q. Mr. Stanley, Mr. Bowen testified that based upon the experience in the operation of the existing truck service by the applicant here, between Hamlet and Monroe, North Carolina, he estimated that the approximate monthly cost of operating the service here under consideration would be about $800. The Examiner then asked him whether or not that figure included any items of overhead cost such as supervision of traffic and others. What have you to say in regard to that?

A. The figures to which Mr. Bowen testified represented actual out of pocket cost of operation of this truck line. Of course, it does not include any over head cost that might be applicable to the solicitation of business or the supervision of the operation of this truck. However, I will say this, that that cost would exist regardless of whether the truck is run or not. The same people that solicit business for the railroad would solicit the business that moved partly by rail and partly by truck.

Q. Mr. Stanley, who is superintendent of the operations of the Georgia Division?

[fol. 1363] A. The overseer on the Georgia Division would get the same salary whether the truck is operated or not, and so as to every other officer of the railroad. Technically some of that expense, theoretically speaking I should say some of that expense would be apportionable to the truck operation, but it would be there whether or not the truck was operated.

Q. Then to the extent that any of such general overhead expense items were charged to the truck operations they would have to be a potential reduction of such expenses attributable to the rail service?

A. Yes.

Q. Now regarding the financial results of the operation of the proposed service, Mr. Stanley, is it possible to show

the extent to which such service would be profitable in its independence of our rail operations?

A. You can only theorize as to that. Comparing the year 1936 with that of 1929, the carload business of the Seaboard Air Line Railway decreased 19.2% in the year. And the less than carload business decreased 32.6%. The difference in those two figures in my mind is represented largely by the business which went to the highways, which was transported by common carrier and contract carrier trucks, trucks owned by whole sale merchants and others of a similar class. Now if our decrease in l.c.l. business during the period named had been no greater than it was [fol. 1364] in carload business, the Seaboard would have earned gross approximately $1,200,000 more than it did earn. So to the extent that by this improved service we are able to bring more business back to the railroad. We are financially benefitted by it.

Q. Would the additional traffic that would be attracted to the rails and to this coordinated rail highway service come necessarily or entirely or enlargely from the existing commercial motor carriers?

A. Did you say entirely?

Q. I say would it necessarily come entirely or enlargely from existing motor carriers?

A. As I understand it in this particular territory there are no competing certified carriers. Therefore in answer to the question in respect to this territory, I should say no. Speaking generally I should say that the largest part of our business would come from the privately owned truck lines rather than from the common or contract carrier lines. Although I believe some would be taken from those lines if our service was superior?

Q. Yes, but if it were taken from such commercial lines it would only be by virtue of superior service.

A. Yes, then I'll call attention to the fact that at one time we enjoyed all of this business and it was taken away from us.

Q. So it would be merely a process?

[fol. 1365] A. Notwithstanding the fact that we spent millions of dollars to develop the territory which is served by our rail line.

Q. That will be a process of recouping rather than diggressing traffic from an agency which had originated it?

A. Yes.

Q. Now, in this territory in particular, Mr. Stanley, you heard the testimony of residents of this local territory regarding the use of privately owned trucks by wholesale merchants for the distribution of their merchandise retail dealers. Is that the character of traffic which you have in mind which it might be possible to reattract to rail service?

A. Largely so, yes, sir. But here I think you are dealing with an application that involves the handling of interstate business and except as to trade centers which are near this trade territory, such as Raleigh, North Carolina. I do not believe either common carrier, truck or privately owned truck would be in competition for that business not for these great distances.

Q. You mean those operations would be confined to shorter distances?

A. Yes. I do call attention to this fact. I think it is one to be very much desired in the public interest. To the extent that you can concentrate transportation of freight [fols. 1366-1367] into a few agencies and a few vehicles that it is very much to be desired because it will have a tendency to unclutter the roads from the use of innumerable motor vehicles.

Q. And would there be any tendency in your opinion to stifle unduly and needed competition in transportation service?

A. No. In other words if the public interest requires competitive service the fact that we are using this as auxiliary to our rail service would be no justification for refusing it.

Q. Is there anything further you wish to say, Mr. Stanley, in this regard?

(Discussion off record.)

Mr. Abeles: That is all, Mr. Chairman.

The Chairman: Any further questions. If not, you may be excused.

(Witness excused.)

Mr. Abeles: That closes the applicant's case, Mr. Chairman.

The Chairman: Do you wish to file briefs?

Mr. Abeles: No. Briefs will not be filed, pending the issuance of the recommended report.

The Chairman: The hearing is adjourned.

(Whereupon at 11:30 a. m. the hearing adjourned.)

* * * * * * * *

[fols. 1368-1369] BEFORE THE INTERSTATE COMMERCE COMMISSION

MC 86687, Sub. 15

In the matter of the application of LEGH R. POWELL, JR., and Henry W. Anderson, Receivers of Seaboard Air Line Railway Co., of Seaboard Air Line Building, Norfolk, Virginia, for a certificate of public convenience and necessity, Form BMC 8, authorizing extension of operations as a common carrier by motor vehicle in the transportation of commodities generally, in interstate commerce, in the State of North Carolina, between Monroe and Waxhaw, North Carolina.

U. S. Court Rooms, Charlotte, N. C., March 14, 1938.

Met pursuant to notice at 10 o'clock a. m.

Before: Joint Board No. 103, composed of Hon. R. O. Self, N. C. Utilities Commission, Raleigh, N. C., Chairman.
Also Present: Hon. W. W. McCaslin, Bureau of Motor Carriers, Charlotte, N. C., Examiner.
APPEARANCES: CHAS T. ABELES, S. A. L. Ry. Co., Norfolk, Va., appearing for the applicants.

[fol. 1370] Proceedings

The Chairman: We will come to order, gentlemen. The Interstate Commerce Commission has set for hearing at this time and place before Joint Board No. 103, the application of Legh R. Powell, Jr., and Henry W. Anderson, Receivers of Seaboard Air Line Railway Co., of Seaboard Air Line Building, Norfolk, Virginia, for a certificate of public convenience and necessity, Form BMC 8, authorizing extension of operations as a common carrier by motor vehicle in the transportation of commodities generally, in interstate commerce, in the State of North Carolina, between Monroe and Waxhaw, North Carolina.

I should announce at this time that no free copies of the transcript of testimony will be distributed. Persons desiring same must order from the reporter. No smoking will be permitted during this hearing. Persons who appear as counsel and not as members of a partnership or officials or employees of a corporation, or in their own behalf, individually, must be admitted to practice or have applied for admission to practice before the Interstate Commerce Commission, unless they have not previously heard of such requirement. Therefore, at the time appearances are entered, announcement should be made of the capacity in which the appearance is made or as to whether or not a person so appearing is admitted to practice before the commission.

Who appears for the applicant?

Mr. Abeles: Charles T. Abeles, counsel for the applicant. [fol. 1371] My address is Norfolk, Va., and I am qualified to practise before the Commission.

The Chairman: Are there any protestants in this case?

(No response.)

The Chairman: We will proceed.

Mr. Abeles: I will ask Mr. Bowen to take the stand.

J. H. Bowen was sworn and testified as follows:

Direct examination.

By Mr. Abeles:

Q. Please state your name, residence and occupation, Mr. Bowen.

A. J. H. Bowen, Atlanta, Georgia, Superintendent, Georgia Division.

Q. Is the line between Monroe, N. C. and Waxhaw, N. C. under your supervision?

A. Yes.

Q. How long have you been in charge of this operation as Superintendent?

A. Since August 25, 1936.

Q. Then you are thoroughly familiar with the operating conditions on this line?

A. Yes.

Q. Will you describe the proposal which is under consideration in this proceeding?

A. We are now operating truck service between Hamlet [fol. 1372] and Monroe, N. C., and the purpose of this application is simply to extend this truck service to Waxhaw, which is approximately 12½ miles south of Monroe. Only less-than-carload shipments will be handled by the truck to and from stations served by our rails.

Q. That service, of course, will be operated in both directions?

A. Yes.

Q. What will be the schedule of the proposed truck service?

A. It will leave Monroe at 8:00 A. M., arrive at Waxhaw at 8:40 A. M., depart from Waxhaw at 9:20 A. M., and arrive at Monroe at 10:00 A. M.

Q. That will be a daily except Sunday service?

A. Yes.

Q. How many stations are there on this route?

A. Three, namely Houston, Mineral Springs and Waxhaw.

Q. Will you now describe the present schedules of train-handling traffic consigned to these points?

A. The volume of this traffic does not justify a daily local train service and we therefore operate a tri-weekly local service. Southbound Local No. 61 leaves Monroe at 7:50 A. M. on Tuesdays, Thursdays, and Saturdays, and arrives at Waxhaw around 8:40 A. M. Northbound Local No. 62 departs from Greenwood, which is about 100 miles south of Waxhaw, at 8: A. M. Mondays, Wednesdays and Fri- [fol. 1373] days, and arrives at Waxhaw around 4:00 P. M., and Monroe about 5:00 P. M. In addition we operate through trains on this route which, while they do not directly serve the stations to be reached by the proposed truck service, handle the shipments which are consigned to these stations in the manner in which I shall later describe. These through trains are Southbound Train No. 83 which leaves Monroe daily at 9:30 P. M.; Northbound Train No. 88 leaving Atlanta at 7:00 A. M. and scheduled to arrive at Greenwood about 5:30 P. M., and Monroe around 11:30 P. M. and through Northbound Train No. 82 which leaves Atlanta at 5:00 P. M. and is scheduled to arrive at Monroe at 7:30 A. M. the following morning.

Q. Please describe the origins of interstate traffic moving into the stations which will be reached by the extended truck operation and the manner in which this traffic is now handled by train.

A. The less-than-carload merchandise consigned to the stations involved moves principally from interstate origins beyond Charlotte, N. C., Hamlet, N. C., and Atlanta, Georgia, in package cars loaded to and which break bulk at those points. I shall deal with each of these origin territories separately.

Less-than-carload merchandise moving through Charlotte includes freight received from connections at that point, namely the Piedmont & Northern Railway, the Nor- [fol. 1374] folk Southern Railway and the Southern Railway. In addition there is consolidated at this point all less-than-carload merchandise moving via the Clinchfield Railroad through Bostic, N. C., from such a middle western origin points as Louisville, Cincinnati, Chicago, Detroit, etc.

Q. How is the merchandise from these origins now handled?

A. Merchandise cars are loaded at Charlotte on Mondays, Wednesdays and Fridays containing less-than-carload shipments consigned to all points intermediate between Monroe and Greenwood, including Houston, Mineral Springs and Waxhaw. These cars are forwarded to Monroe and are carried on Train No. 61 leaving Monroe on Tuesdays, Thursdays and Saturdays. If interstate freight consigned to Waxhaw reaches Charlotte on Saturdays it is not delivered until the following Tuesday, or third morning delivery.

Q. When you state Waxhaw, I presume you take Waxhaw as representative of all the through stations on this route?

A. That is right.

Q. Proceed.

A. Traffic handled in package cars which reach Charlotte on Tuesdays and Thursdays lay over at Charlotte until the following night when it is forwarded to Monroe for delivery on No. 61 the following day, or second morning delivery. Only freight available for forwarding from Charlotte on Mondays, Wednesdays and Fridays receives [fol. 1375] overnight service to the destination involved.

Q. Now explain how this merchandise will move if the proposed truck service is established?

A. With the proposed truck service in operation traffic from Charlotte and beyond will be moved on a daily night train from Charlotte to Monroe at 1:35 A. M. and will be forwarded by truck that morning leaving Monroe at 8:00 A. M. and arriving at Waxhaw, and intermediate points, at or prior to 8:40 A. M. In other words traffic available for loading at Charlotte on Saturdays will be delivered on Monday Morning instead of Tuesday morning as at present, or a saving of 24 hours, and merchandise available for loading at Charlotte on Tuesdays and Thursdays will be delivered the following morning instead of the second morning, a saving of 24 hours. In addition there will be daily service from Charlotte to this territory instead of tri-weekly.

Q. Now describe, Mr. Bowen, the present method of handling traffic moving through Hamlet.

A. This traffic originates in eastern territory such as New York, Philadelphia, Baltimore and Pittsburgh, as well as Richmond and Norfolk and all southern points except Birmingham, Atlanta and beyond. At the present time freight moving through Hamlet is now loaded on package cars which are forwarded by through Train No. 87-83 [fol. 1376] to Chester, S. C., arriving there about midnight, where they break bulk. When these shipments reach Chester on Mondays, Wednesdays and Fridays they are forwarded on Northbound Local No. 62 that day and reach Waxhaw about 4:00 P. M. that afternoon. When the shipment reaches Chester on Tuesdays, Thursdays and Saturdays, on which days Local freight No. 62 is not operated, it lays over in Chester for 24 hours. With the truck service in operation the package car handling these shipments will be loaded on Monroe daily, arriving at that point at 9:00 P.M., and will be forwarded by the truck the following morning, arriving at Waxhaw about 8:40 A. M. This means that shipments heretofore moving from Chester via Local Train No. 62 on Mondays, Wednesdays and Friday- will be delivered at 8:40 A. M. instead of 4:00 P. M., practically a day's saving, whereas the shipments which, reaching Chester on Tuesdays, Thursdays and Saturdays were compelled to lay over at that point for 24 hours, will be advanced practically 48 hours.

Q. Mr. Bowen, now discuss the traffic originating at Atlanta, Birmingham, and beyond.

A. At present, traffic moving from or through these points is loaded at Atlanta and forwarded on through Train No. 88 leaving Atlanta at 7:00 A. M. for Greenwood where it arrives about 5:30 P. M. At that point, where a night transfer force is maintained, the cars break bulk. When these shipments are delivered at Greenwood on Tuesdays [fol. 1377] and Thursdays they are forwarded by Local Train No. 62 the following morning and reach Waxhaw at 4:00 P. M. Shipments arriving at Greenwood on Saturday are forwarded the following Monday morning and arrive at Waxhaw at 4:00 P. M. that afternoon. Shipments arriving at Greenwood on Mondays, Wednesdays and Fridays too late for Train No. 62 are loaded on a turn-back car for Monroe and carried on through Train No. 82 to Monroe, arriving the following morning. The car is then forwarded on Local Southbound Train No. 61, leaving Monroe at 7:50 A. M., and arriving at Waxhaw at 8:40 A. M. the same morning. By utilizing the proposed truck service all of these shipments originating at or beyond Atlanta will be loaded at Atlanta and moved on through Train No. 82 to Monroe, arriving at 7:30 A. M. in time for transfer to and delivery by the truck at Waxhaw at 8:40 A. M. that morning. Thus a shipment loaded at Atlanta on Monday, which now does not arrive at Waxhaw until Wednesday at 4:00 P. M. will be delivered by truck at 8:40 A. M. Tuesday morning; and shipment loaded at Atlanta on Tuesday, which now arrives at Waxhaw at 8:40 A. M. Thursday, would be delivered by the truck at 8:40 A. M. Wednesday.

Q. Mr. Bowen, is there any traffic originating at the points to be served by the proposed truck route service on which will be improved?

A. There is at present no outbound traffic of any consequence moving from this territory.

Q. Mr. Bowen, will the proposed truck operation be of [fol. 1378] benefit in the service on the traffic other than that consigned to points on the proposed truck route?

A. The proposed truck service will save us at least 30 minutes additional time a day through the elimination of unloading the merchandise for the points named on Train 61, which would enable us to get Train 61 to Greenwood in sufficient time to work the other merchandise cars going

to Greenwood for other points. Train 61 moves considerable less-than-carload traffic consigned to distant destinations throughout the country beyond Greenwood, at which point these shipments are concentrated into through package cars. This requires the transfer of these shipments from Train 61 to the through package cars for forwarding on Trains 82 and 83 the same night, a night transfer being operated at Greenwood for this purpose. At times we have difficulty in reaching Greenwood with Train 61 in time to complete this transfer work. Consequently any time that can be saved in the arrival of Train 61 will assure the forwarding of these merchandise shipments on schedule. For the same reason the earlier arrival of Train 61 at Greenwood will assure the forwarding of solid carloads moved by Train 61 on Train 85 which leaves Greenwood at 9:45 P. M. At times these connections are now missed.

Q. Mr. Bowen, you have explained the improvements which will be made possible through the establishment of [fol. 1379] the proposed truck service. Is there any way by which these improvements could be accomplished by improving train service except at a prohibitive cost?

A. No.

Q. Mr. Bowen, will any savings be effected by the proposed operation?

A. Yes. While we do not propose to curtail our present train service, there will be a savings of approximately $5.00 per day which will be effected through the reduction in fuel consumption made possible by the elimination of local stops and in overtime.

Q. Mr. Bowen, are you familiar, or will you familiarize yourself, with the Commission's rules and regulations governing the operation of motor carrier trucks in interstate commerce?

A. I have examined the regulations which have come to me and am familiar with them and will, of course, keep myself currently informed of any revisions or additional regulations that may be issued.

Q. Mr. Bowen, will your trucks be equipped with all the safety appliances required by the Interstate Commerce Commission, or by the State authorities?

A. Yes, sir.

Q. Do you know of any established motor carriers serving stations which will be reached by the proposed extension truck service?

[fol. 1380] A. I do not.

Mr. Abeles: That is all. Are there any questions?

The Examiner: Do you have any motor carrier employees now under your supervision?

The Witness: Yes, sir.

The Examiner: When you do have such employees do you see that they are fully instructed in regard to all safety regulations and that all your vehicles are kept equipped in accordance with the safety regulations?

The Witness: Yes.

By Mr. Abeles:

Q. How many stops a day will be affected by this operation?

A. Possibly three.

The Examiner: About a half hour overtime eliminated?

The Witness: Yes, a half hour overtime, each crew, 61 and 62.

(Witness excused.)

R. W. Rogers was sworn and testified as follows:

Direct examination.

By Mr. Abeles:

Q. State your name, residence and your occupation.

A. R. W. Rogers, residence, Hamlet, N. C., superintendent of the North Carolina Division of the Seaboard Air Line Railway.

Q. Have you been operating trucks in motor carrier serv-

[fol. 1381] ice on any part of your division?

A. Yes.

Q. Between what points?

A. Between Hamlet, North Carolina, and Monroe, North Carolina.

Q. And for how long?

A. Since July, 1932. Personally, I have had supervision over this service since September, 1934.

Q. Do you know whether accounting records have been maintained of the cost of operating that truck service?

A. They have.

Q. Let me see it.

(Discussion off the record.)

Q. You have statements showing that cost?

A. I have.

Q. Will you state for the record, Mr. Rogers, what periods are covered by the statements which you have before you and what they show?

A. I have one statement covering a period of 56 months of operating the Hamlet-Monroe truck from July, 1932, to February, 1937. That covered the actual life of a truck from the time we put it into service until it was finally discarded.

Q. When you say discarded, what do you mean?

A. I mean traded in.

Q. Sold?

A. Yes.

[fol. 1382] Q. Now will you state the items into which that statement is broken down and the amounts referable to each?

A. The first items pertain to the mileage, the gasoline consumption and the oil consumption.

Q. You might state what each item is and the amount.

A. That truck in the 56 months of its service made 148,872 miles. We consumed 31,913 gallons of gas, 367 gallons of lubricating oil.

Q. At a total cost of what?

A. As to the cost, gasoline was $4,723.86. Lubricants, $273.10. Tires, $1,000.66. Do you want the details of each of these or the totals?

Q. The totals.

A. In this also is included repairs, licenses——

Q. I beg your pardon, I don't want each item.

A. Repairs, $2,403.71. Other supplies, $159.67. Driver, $5,148.61. Licenses, $2,332.35. Insurance, $955.36, Taxes $308.00, a total of $17,305.32. The cost of the tractor and semi-trailer was $4,300. Interest on the investment at six per cent for four and two-thirds years was $1204.00,

making a total investment cost of $5,504.00, less a trade in value or allowance at the time it was disposed of $250.00, making a gross of $5254. Net investment cost of $5254.00, which added to your operating cost made our entire cost [fol. 1383] of $22,559.32. This averaged then $402.84 per month. The cost per mile was .152 cents per mile, and gas consumption was 4.66 miles per gallon.

Q. Now, Mr. Rogers, when was that truck sold or disposed of?

A. Sometime in March, 1937, February or March 1937.

Q. Have you a record of the cost of operating the new truck over the Hamlet-Monroe route?

A. Yes. I have a statement covering the period of May 7, 1937, to January 31, 1938.

Q. Generally speaking, that statement is composed of the same items you have recited, with the exception, of course, of the depreciation, is that correct?

A. In this truck, not having the actual figures as we did in the other, we have estimated the depreciation.

Q. At what rate?

A. 15 per cent per annum.

Q. And based upon that estimated depreciation rate, what is the cost per mile developed for the several months of operation of the new truck?

A. .1233. That is 12 and ⅓ cents per mile.

Q. That presumably is somewhat low, is it not?

A. Yes, because the truck, of course, was new. We have spent very little for repairs. Of course, your new truck gasoline and oil consumption is low.

Q. Do you feel, Mr. Rogers, that the cost of 15.2 cents [fol. 1384] *cents* developed throughout the life of the old truck is a reasonably accurate figure for the cost of operating the present truck?

A. Very close, yes.

Q. Now, Mr. Rogers, with regard to the additional cost of operating the 12.5 miles, between Monroe and Waxhaw, would that cost per mile fairly represent the additional cost of operating for that distance?

A. Well, the cost per mile for the additional mileage should be less because in this is your licenses, your taxes, and your depreciation and those items that will not be increased by increasing the mileage. Of course our driver is paid on a monthly rate up to reasonable hours, and this

added mileage does not add to his wages on account of it being so very small.

Q. I understand from what you have just said that the overhead items which you have named and which comprise a very substantial part of the cost per mile will not be increased by the additional mileage operated.

A. No, generally speaking the only increased items will be in gasoline, oil and some wear and tear on our tires.

Q. In any event the fifteen and a fraction cents per mile developed for the cost of operating your own truck would be an outside figure for the new operation?

A. Oh, yes, ample.

[fol. 1385] Q. Now, Mr. Rogers, with regard to the Monroe-Waxhaw part of this operation, will you have charge of the equipment, appliances and crew in charge of this truck?

A. Generally, yes.

Q. Now, will you state whether you are thoroughly familiar with the Commission's rules and regulations applicable to the operations of trucks of this character?

A. I am.

Q. Will you see to it that these trucks are equipped with all of the appliances required by the Commission's regulations?

A. We will see to it that the truck complies in every way with the regulations of the Commission.

Q. And that the drivers' rules are observed?

A. We will, and we do.

The Chairman: Do you pay the employees to operate a truck the same rate of wages you pay similar classes of folks on the rails?

The Witness: No, the rate of pay of a truck driver is different from rates of pay on train service.

The Chairman: In other words, the chauffeur on the truck does not get engineers' pay?

The Witness: No, sir, he does not.

The Examiner: Will the equipment which is used on this proposed new operation be of the same character and class [fol. 1386] as to size, weight and capacity as the one shown to have been operated between May, 1937, and January, 1938?

The Witness: It will be the same truck.

The Examiner: That will be a stretch out of its present run between Hamlet and Monroe?

The Witness: That is right. It adds approximately 25 miles a day more to the run.

The Examiner: Now, necessarily, I suppose, in this statement of cost which comes to 15.2 and the other statement which shows 12.33 cents per mile, there has been no allocation of the general supervisory salaries and the cost of solicitation and publication of tariffs and those general railroad overhead expenses?

The Witness: Not at all. This is purely an arrival of the out of pocket cost.

The Examiner: Then the 15.2, if it were an independent operation, would not cover the entire cost, would it? I mean if this were a truck operated alone.

The Witness. Possibly not.

The Examiner: Alone where solicitation was necessary and general supervision and the publication of tariffs and the like had to be borne entirely by the truck service, this figure would be low, would it?

The Witness: I should think so, yes.

The Chairman: Mr. Rogers, do you figure that the truck [fol. 1387] you have operated there has been operated at a profit?

The Witness: Yes, sir.

The Chairman: Do you figure that profit to the railroad from the standpoint of revenue made by the truck itself, or from saving from operating trains on the same territory?

The Witness: Both. We control business with the present truck that we would not control without it. And it does give us for the local service that it performs, an economical operation.

The Chairman: That is all.

By Mr. Abeles:

Q. Mr. Rogers, in connection with the question as to whether or not the cost statement which you have given for the record includes any supervisory or overhead costs, will there by any addition to such costs because of the additional operation here?

A. None whatever.

Q. Has there been in connection with the operation of your Hamlet-Monroe truck service any additional overhead cost?

A. None whatsoever, and if you pro-rate the overhead of the North Carolina Division on a mileage basis as between truck and train service, the allocation to this particular truck service will be very low.

Q. To the extent, however, that supervisory and overhead cost of an independent service will be substantial, we can operate trucks, can we not, more cheaply than an in-
[fol. 1388] dependent company?

A. Yes, because we do not require the additional overhead expenses itself and supervision.

(Witness excused.)

W. L. STANLEY was sworn and testified as follows:

Direct examination.

By Mr. Abeles:

Q. State your name, residence and occupation, please.

A. W. L. Stanley, residence, Atlanta, Georgia, vice-president of the Seaboard Air Line Railway Company and Chief Public Relations Officer for the receivers of that company.

Q. You have occupied that position for sometime, have you not, Mr. Stanley?

A. Yes, sir, for a number of years.

Q. Have you been closely associated with the development of motor carrier service by the Seaboard Air Line Railway and its receivers?

A. I have.

Q. Are you thoroughly familiar with the plan and purpose which the receivers have in mind in establishing such service?

A. I am.

Q. Will you now explain for the record just what that plan and purpose is, Mr. Stanley?

A. The general plan is to develop a coordinated rail and
[fol. 1389] truck service. That is to say, to handle wherever the business may be expedited or where it may be more economical to do so, to handle it partly by rail and partly by truck. We do not propose to operate the trucks independently of the railroad, but as a part of the railroad. All of the freight that is received by us will move under railroad bills of lading. It will move from our depots to

our depots, and only between those points. I might illustrate what I have in mind by saying this, that as the Witness, Mr. Bowen, explained, freight comes to us at concentration points from all over the United States, and there cars are made for distribution to the various lines of the railroads. It is our purpose to take that freight and move it to some convenient central point and then in the delivery of it to the smaller stations to utilize trucks. Of course, we will handle any freight from contiguous stations that may be offered to us, smaller stations, by truck. In that way, first, the freight will be greatly expedited. We will give a better service to the public. In the second place, it will enable us not only to expedite this less than carload freight, but to also expedite the handling of carload freight for the smaller stations, which is now handled and placed largely by our local trains, for the reason, to the extent that these local trains are relieved of doing peddler work [fol. 1390] at smaller stations, they will have more time to devote to the movement of carload business and the time that will be required in doing that, in handling carload business to these smaller places, will be lessened. In addition to that, we also feel that in many instances we can operate local freight trains during the night time and switch industries at smaller places that have no yard crews at times when the manufacturing plants will be less inconvenienced by that switching.

Q. Mr. Stanley, reference has been made by Mr. Rogers to the Seaboard's previous operation of the truck service between Hamlet and Monroe. What other experience has the Seaboard had in operating motor carrier service?

A. As I recall it, the first service that we established was that referred to by Mr. Rogers between Hamlet, North Carolina and Monroe, North Carolina, which was put on about July, 1932, about the middle of the year, 1932, and which has been operated continually since that time. About that date we also established a service between Monticello, Florida and Drifton, Florida, handling both passengers and freight. Then we put on a service handling freight and express between Waldo, Florida and Morriston, Florida. Then another service from Tampa to Jacksonville. From Jacksonville to Wildwood, Florida, subsequently extended that from Wildwood to Tampa. Then another serv- [fol. 1391] ice between Rhyne, Georgia, and Lyons, Georgia, a distance of about 58 miles. I don't know that I have

stated them in exact logical order, but beginning with the summer of 1932, most of these services were established about that time and have been continued since that date. I am speaking of those services that are handling both intrastate and interstate business.

Q. Now, have we any services which are handling intrastate business only?

A. Yes. We have this service that we are seeking application for, the service here now engaged in intrastate business under the authority of the North Carolina Utilities Commission. Then we have a service between Jacksonville, Florida and River Junction, Florida, engaged solely in the handling of intrastate business that covers a distance of about 208 miles, an application of authority to handle interstate business now pending with the Interstate Commerce Commission.

Q. Can you tell us approximately what the mileage of these several routes aggregates?

A. Including those that are handling intrastate business only, I should say between 700 and 800 miles. I am approximating it.

Q. Have these operations functioned successfully in the manner and for the purpose for which they were intended?

A. Very, and have fulfilled our expectations as to what could be accomplished by the establishment of them.

[fol. 1392] Q. Have any of them ever been discontinued to your knowledge?

A. No, in all of our experience we have never discontinued but one service that I recall. That was one that was put on temporarily between Norlina, N. C. and Hamlet, N. C., primarily for the purpose of handling U. S. mail. And due to the fact of taking off or rearrangement of schedules of certain passenger trains.

Q. You may have already covered this in your testimony, but if not, will you state whether these trucks are utilized as a substitute for train service?

A. No, they are simply used as an adjunct to train service. As a matter of fact, I do not recall a single train, with the exception of the Monticello and Drifton branch, four miles between those points, that has been discontinued. I might add that between Waldo and Morriston, Florida, that since that truck service was established, we have put on one or more freight trains in that territory.

Q. Do you think that the truck service we had established on that route was in part responsible for the additional train which was put on there?

A. It gave to the public a better service. It had something to do with it. I wouldn't say it was the controlling reason, but wherever we have established these truck lines we have expedited the movement of freight and given to [fol. 1393] the public a service which it appreciates and of course as a necessary result of that, it has attracted business to the railroads.

Q. In any event, I understood you to say that we had never taken off trains because of the establishment of truck services of this nature.

A. No, that was not in contemplation as one of the reasons for establishing the service. I don't know whether it is strictly proper testimony, but I might, from an investigation which I made in order to determine just how the public felt about some of these services, give you the result of the queries that I made into the service which we have between Lyons and Rhyne, Georgia.

Q. I think that would be very interesting.

A. We used to have a tri-weekly local in that territory, and as is the case between Monroe and Waxhaw, freight arrived three times a week from one direction, three times a week in another direction, at any hour during the 24 that the train was scheduled to arrive. Now we are loading from Savannah, Georgia, and from Macon, Georgia, cars that break on Vidalia, Georgia, and the truck then takes the freight that has moved for those distances by rail, which in one instance is 80 miles and the other 91 miles, and distributes it to these smaller stations. Not only one merchant, in that territory, but many merchants [fol. 1394] in response to the inquiry as to how they liked this service, made this statement, that they could not depend upon the old rail service, but that now if a patron would come into their stores as late as four o'clock in the afternoon and want to purchase some article, and it wasn't in stock, that they could call up the wholesaler in Macon, Georgia and ask him to ship it out that evening by the M. D & S, which is a Seaboard subsidiary, and assure him that the next morning the freight would be delivered at eleven o'clock at destination and never miss their guess.

Q. Now, Mr. Stanley, will you discuss the importance of the less carload traffic to the Seaboard and something of the history of that traffic in the past few years.

A. Of course, the freight traffic of the railroads as a whole has materially decreased since 1929. The major reason for that decrease is the depression, but there has been a very much greater decrease in the volume of LCL freight of the Seaboard than there has been in the volume of carload business. Now in the year 1929, the Seaboard Air Line system handled 15,794,980 tons of carload freight, and in 1926 it handled 12,758,567 tons of such freight. In the year 1929 we handled 784,186 tons of less than carload freight, and in the year 1936, 496,990 tons of less carload freight; making the comparison for those two periods, the carload business decreased 19.2 per cent, while the less [fol. 1395] than carload business decreased 38.6 per cent. Now if the decrease in the less than carload business had been no greater than that that pertained to the carload business, we would have handled 138,631 more tons of less than carload freight in 1936 than we actually did. And would have earned $1,199,620 more than we actually earned.

Q. Now, Mr. Stanley, do you think the establishment of motor carrier services such as is proposed in this proceeding will be effectual in part at least in arresting that decline in the movement of less carload traffic?

A. I do.

Q. I understand that the primary purpose of this service is to handle and expedite less carload shipments, is that correct?

A. The primary purpose of this service is to give to the public a better service than we can afford today; solely through the use of trains and to the extent that we render that better service we believe that our business will be increased.

Q. Mr. Stanley, I am handing you a copy of the anual report of the Seaboard Air Line Railway and its receivers for the calendar year 1936, which is the last available annal report and I am going to ask you to refer to that and state for the record the railway operating revenues, the net railway operating income and gross income as shown [fol. 1396] on that report.

A. For the year 1936, the railway operating revenues of the Seaboard Air Line Railway were $38,346,055.37. The net railway operating income, which was that sum remaining after deducting therefrom operating expenses, tax accruals, equipment rents and joint facility rents, $2,920,582.99. Other income amounted to $356,168.24, and total gross income, as that word is defined by the Interstate Commerce Commission, was $3,276,751.23. That was applicable, of course, to the payment of, or available for the payment of fixed charges.

Mr. Abeles: We offer that annual report, Mr. Examiner.

The Chairman: It will be received.

(Exhibit No. 1, Witness Stanley, is received in evidence.)

By Mr. Abeles:

Q. Is there any doubt, then, Mr. Stanley, of the financial ability of the receivers to operate the proposed service?

A. No, we have over $3,000,000 with which to pay the expenses of such operation.

Q. Have the receivers been authorized by the Court of their appointment to operate motor carrier service?

A. Yes.

(Discussion off record.)

Mr. Abeles: Mr. Chairman, I offer in evidence a copy of the application and order No. 207, in the receivership [fol. 1397] proceedings of the Seaboard Air Line Railway Company, in the District Court for the Eastern District of Virginia, the order having been entered July 15, 1937, authorizing the receivers to establish and operate motor carrier services over such routes in their judgment they deem desirable. That is a true and correct copy of the order as entered.

The Chairman: It will be accepted as exhibit No. 2.

(Exhibit No. 2, Witness Stanley, is received in evidence.)

By Mr. Abeles:

Q. Mr. Stanley, is there anything else you wish to say?

A. I would like to make this very brief statement, that so far as the public is concerned, that there will be no change whatsoever in our contractual relationship with it. The man who wants to ship an article of freight will

come to our station under this proposed arrangement as he has come under the old arrangement and get a railroad bill of lading. The consignee of that freight at destination will deal with our agent at that point just as he has dealt with him under the old regime. It may be that that freight that is covered by our railroad bill of lading will be handled partly by rail and partly by truck under the new plan, but neither the shipper nor the consignee will know anything about that change in the method of transporting the freight except as they may inquire why it is being deliv-
[fol. 1398] ered so much more promptly than it was under the old system.

Q. That method of transporting shipment is of course, authorized by published tariffs, is it not?

A. Yes. In other words, our tariffs will be the same. I I hope I have brought out the point I am trying to make. There may be a difference in the method in the physical handling of that freight as compared to the old system, but so far as our contractual relationship to the public is concerned, there is no change.

The Chairman: Mr. Stanley, this proposed line parallels your railroad out to Waxhaw on south to Atlanta?

The Witness: Yes, sir.

The Chairman: Do you have any other operations paralleling that line to Atlanta?

The Witness: No, sir. I might say this, that the policy of the Seaboard Air Line Railway in the operation of trucks has been to confine itself to the territory served by its rail lines and to the communities that are connected by those rail lines and that we have never sought to go off of our own bailiwick.

The Examiner: In this case, Mr. Stanley, you desire to serve intermediate points and terminal points in this proposed operation which are also stations on the Seaboard Air Line Railway?

The Witness: Absolutely, that is the point.

[fol. 1399] By Mr. Abeles:

Q. The three points named by Mr. Bowen are all stations on the Seaboard?

A. Stations on the Seaboard.

(Discussion off the record.)

Mr. Abeles: I would like to move the admission in evidence of all the factual parts of the application in this proceeding.

The Chairman: It will be so accepted.

(Witness excused.)

L. W. Rogers testified further as follows:

Direct examination (continued).

By the Examiner:

Q. In the application, Mineral Springs is described as possibly an off route point because the points where you will pick up and deliver freight, I understand, which is your freight station, is about 100 yards off the highway, N. C. 75. However, N. C. 75 goes through the Town of Mineral Springs, does it not?

A. That is correct. The highway and railroad parallel right through the town, something less than a block apart.

Q. Then a description of this operation as being between Waxhaw and Monroe, serving all intermediate points which are stations on the Seaboard Air Line Railway, would include Mineral Springs, would it not, without Mineral Springs being put in as an off route point?

[fols. 1400-1401] A. Yes, that is correct.

(Witness excused.)

J. H. Bowen testified further as follows:

Direct examination (continued).

By Mr. Abeles:

Q. Mr. Bowen, is free pick up and delivery service performed by the Railway in any of the communities which will be served by the proposed extension of the Hamlet-Monroe truck operation?

A. Waxhaw.

Q. The truck used for the performance of the extended service will also be utilized for the pick up and delivery service?

A. No, sir. We perform our pick up and delivery services in all instances with separate trucks.

Q. You do?

A. Yes.

(Witness excused.)

Mr. Abeles: That is the applicant's case, Mr. Examiner.

The Examiner: You don't desire to file brief?

Mr. Abeles: No.

The Chairman: That is all, then. The hearing is now adjourned.

(Whereupon, at 11:40 o'clock a.m., March 14, 1938, the hearing adjourned.)

[fol. 1402] BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. MC-86687 (Sub. No. 18)

In the Matter of the Application of the Seaboard Air Line Railway Co. (Legh R. Powell, Jr., and Henry W. Anderson, Receivers), a corporation, of Seaboard Air Line Railway Building, Norfolk, Virginia, for a certificate of public convenience and necessity, Form BMC 8, authorizing extension of operations as a common carrier by motor vehicle in the transportation of commodities generally, in interstate commerce, in the State of Florida, between Jacksonville and Fernandina, Florida, via Yulee, Florida.

Hotel Mayflower, Jacksonville, Florida,
Wednesday, June 22, 1938, 9:00 O'clock A.M.

Met pursuant to notice.

Before: Joint Board No. 205

Present: Hon. Eugene S. Matthews, Chairman, Florida Railroad Commission. Richard Yardley, Examiner, Interstate Commerce Commission.

APPEARANCES:

W. J. Oven, Midyette-Moor Building, Tallahassee, Florida, appearing for Seaboard Air Line Railway.

Stanton Walker, Atlantic National Bank Building, Jacksonville, Florida, appearing for the Great Southern Trucking Company, Inc.

[fol. 1403] J. A. Bliss, P.O. Box 90, Jacksonville, Florida, appearing for the St. Johns River Line Company, L. & L. Freight Lines, Inc., Elliott Young Consolidated and Tamiami Trail Tours, Inc.

Jay C. Steadman, 1103 North Myrtle Avenue, Jacksonville, Florida, appearing for the K. & L. Transportation Company, Inc., of Waycross, Georgia.

Leo P. Kitchen and Dan R. Schwartz, 302 Atlantic National Bank Building, Jacksonville, Florida, appearing for R. C. Motor Lines, Inc., Jacksonville, Florida, and Wayne F. McJunkin Truck and Bus Line.

[fols. 1404-1405] Proceedings

Chairman Matthews: Let's have order.

The Interstate Commerce Commission has set for hearing at this time and place the application of the Seaboard Air Line Railway (Legh R. Powell, Jr., and Henry W. Anderson, Receivers), a corporation, of Seaboard Air Line Railway Building, Norfolk, Virginia, for a certificate of public convenience and necessity, Form BMC 8, authorizing extension of operations as a common carrier by motor vehicle in the transportation of commodities generally, in interstate commerce, in the State of Florida, between Jacksonville and Fernandina, Florida, via Yulee, Florida.

Who appears for the applicant?

Mr. Oven: W. J. Oven, Tallahassee, Florida.

Chairman Matthews: Who appears for the protestants?

Mr. Walker: Stanton Walker, appearing for the Great Southern Trucking Company and I desire to file formal petion for intervention.

Mr. Kitchen: Leo P. Kitchen and Dan R. Schwartz, appearing for the McJunkin Truck & Bus Line, and the R.C. Motor Lines, Incorporated.

We have filed a formal petition of intervention, two copies being filed with the Reporter and the carbon copy with the applicant's attorney, Judge Oven.

Examiner Yardley: The two first appearances please [fol. 1406] state the position of these companies, as to where they operate, in other words, do they operate directly from Jacksonville to Fernandina?

Mr. Walker: No, they do not operate directly from Jacksonville to Fernandina.

Examiner Yardley: Now, what is your understanding in this proceeding?

Mr. Walker: The matter is, as will be shown by subsequent motion, this is a part of a coordinated interstate operation of the Seaboard Air Line. That, in connection with this other sub title, it will afford or may carry interstate traffic originating in Miami, Tampa and intermediate points through Jacksonville for Fernandina and may likewise transport southbound common carrier freight into Jacksonville for subsequent delivery into Fernandina.

Examiner Yardley: Is your position the same, Mr. Kitchen?

Mr. Kitchen: The interest of the McJunkin Truck & Bus Line is that this carrier operates over the same routes and from the same termini; I should say between the same termini as that as having been applied in the application by the applicant. The McJunkin Bus Line is a common carrier of commodities generally; the R. C. Motor Lines operate over a portion of the route from Jacksonville to Yulee and at Yulee and Jacksonville both make connections direct with McJunkin Truck & Bus Line; in addition thereto we use the same reasons as given by Mr. Walker.

[fol. 1407] Chairman Matthews: The McJunkin operates both intra and interstate?

Mr. Kitchen: Yes.

Mr. Steadman: Jay C. Steadman appearing for the K. & L. Transportation Company, Incorporated, of Waycross, Georgia, a corporation incorporated in Georgia, engaged in the business of transporting freight for compensation in interstate and intrastate commerce and feels that it has an interest in this case because of the fact that it interchanges interstate freight with the McJunkin Truck Lines and that due to the small amount of tonnage moving between Jacksonville and Fernandina that it stands a chance to lose what revenue it derives from that line as an interchange line and the addition of any competition on the part of applicant to that point between Jacksonville and Fernandina and the fact that we have no joint traffic arrangement with this company and one is proposed, we would suffer to that extent.

Mr. Bliss: J. A. Bliss, Jacksonville, Florida, appearing for the St. Johns River Line Company of Jacksonville, Florida, the L. & L. Freight Lines, Incorporated, of Jacksonville, the Tamiami Trail Tours, Incorporated, of Tampa, all in opposition to the granting of the application.

All of those named are common carriers by motor vehicle in both interstate and intrastate commerce, and the St. Johns River Line is, in addition, a common carrier by water [fol. 1408] in both interstate and intrastate commerce.

None of these carriers has direct service between Jacksonville and Fernandina, but they are interested in the preservation of motor service between Jacksonville and Fernandina with which carriers are free to interchange. We are furthermore considering the situation created by these numerous applications on the part of this applicant, which appear to be susceptible to linking together into a wider motor carrier operation, the exact scope and nature of which we cannot even predict at this time.

In addition, the St. Johns River Line Company has an interest as a carrier by water, in that it passes Fernandina, Florida, each night, although its boats do not stop; none of the parties I represent desires to broaden the issues in any way.

Mr. Oven: Before we proceed with this hearing I would like to reserve one point, the applicant here filed with the Interstate Commerce Commission for registration under the proviso appearing at the last part of paragraph 206a of the Motor Carrier Act. We contend that since this operation is wholly within the State of Florida and since there is a commission within the state authorized to grant or approve such a certificate and since the Commission has granted a certificate for intrastate commerce, that such a proviso is applicable to our application for registration. Subject to that, we will proceed now with the proof under [fol. 1409] the application for certificate of public convenience and necessity.

Examiner Yardley: Do I understand now that you are taking two shots at this matter, you want your application heard and in the event it should be denied then you will rely upon your registration?

Mr. Oven: I take that to be the case, my understanding is the Commission took the position that since we operated into more than one state, but different truck lines operated

in two different states, that this clause is not applicable, but I simply wish to reserve the point.

Mr. Walker: That question is before the Interstate Commerce Commission now in some other cases and has not been passed upon and Judge Oven is trying to reserve the question here.

Mr. Kitchen: Mr. Chairman, may I be heard? I want to put into the record one or two questions, I would like to ask Judge Oven relative to his opening statement, if he is relying upon the right, the intrastate rights, as allowed L. R. Powell, Jr., and Henry W. Anderson, Receivers of the Seaboard Air Line, of Norfolk, Virginia, the Order being No. 793, Docket 216, issued by the Florida Railroad Commission.

Now, Judge Oven, are you relying on such rates as have been granted to the Seaboard Air Line Railway by such order?

Mr. Oven: Let me see that order—no.

[fol. 1410] Mr. Kitchen: What order are you relying on?

Mr. Oven: An order made by the Commission last year, September, I think, for intrastate service.

Mr. Kitchen: What order is that, may I inquire?

Mr. Oven: An order made by the Commission permitting service from Jacksonville to Fernandina and return by Yulee.

Mr. Kitchen: Would you mind examining that order and telling me if that is the one?

Mr. Oven: I told you that is not the one, this was an order by the Commission permitting supplemental service, later on, attached to House Bill 138, we filed an application and that was granted.

Mr. Kitchen: That is what I wanted to know, whether that application was granted for a hearing and finding of public convenience and necessity or is it recognized that House Bill 138 gave permissible right to the Seaboard Air Line?

Mr. Oven: It was granted upon an application made under provisions of House Bill 138; now, Chapter 18027, Acts of 1937, the effect of that chapter was to so amend Section 27 of Chapter 14764, Acts of 1931, as to relieve the railroad of the necessity of proving public convenience and necessity, but nothing else, and the Supreme Court of Florida has construed that Act in effect as wholly that the legis-

lature determined such was a public convenience and necessity and I will state that the Supreme Court of Florida has [fol. 1411] passed on the validity of the Act and petition for rehearing was filed and heard and the court reaffirmed its judgment, a week ago last Friday.

Mr. Kitchen: Nevertheless, isn't it a fact that this Act grants this certificate as a ——

Mr. Oven: I have stated the facts.

Mr. Kitchen: That is a fact that I stated too—that the Act itself grants certificate as a matter of right upon application.

Mr. Oven: So far as public convenience and necessity.

Mr. Kitchen: So far as the railroad is concerned?

Mr. Oven: From station to station on the line of the railroad.

Mr. Steadman: As a matter of information to me, isn't this a hearing for public convenience and necessity? I would like to know if that is the case, what is the occasion of the introduction of any reserves, I don't get the point, I see no occasion for it, I can see no place in the record for it. I would like to move that it be stricken.

Chairman Matthews: I think we have to let the applicants conduct their own case.

Mr. Bliss: I would like the record to show that we disagree with Mr. Oven's interpretation of Section 216.

Examiner Yardley: You can argue that on a brief. So far as my understanding is concerning Judge Oven's position in this matter, he can have two chances at it, it can be ruled [fol. 1412] on by the Commission and in the event he wants to take it to court he can do so.

Mr. Kitchen: I was merely trying to find out.

Mr. Walker: Comes now the protestant, the Great Southern Trucking Company, and moves to dismiss the present application of the Seaboard Air Line Docket MC-86687, Sub-Title 18, or to postpone the hearing thereof until such time as a board may be appointed having jurisdiction of this case under the Motor Carrier Act of 1935, upon the following grounds:

1. That Joint Board 205, composed of one representative of the State of Florida, does not, under the Motor Carrier Act of 1935, have jurisdiction to hear and determine the matter of interstate commerce involving necessary coordinated transportation service through more than one state.

2. That, by virtue of the present application being for interstate service, it is obvious that transportation and coordinated transportation covering more than one state is requested.

3. That application, Sub-Title 18, is one of at least coordinated applications filed by the same applicant throughout the Southern States, brought by the Seaboard Air Line Railway Company for motor carrier freight service.

That as such a board composed of representatives from each state or in the event of more than three states being involved, it is necessary that an examiner or special board, [fol. 1413] with proper jurisdiction in this case, be appointed.

That it is apparent from Sub-Title 18 application and the other applications for this class of service, that it is intended by this applicant to present a coordinated motor carrier common carrier freight services throughout the Southern States, this being one of 18 of such coordinated services. I might state that this is no reflection on our good Chairman, but I will take this point that it should be considered a coordinated operation requiring the hearing by one examiner.

Now, I might add that that objection was filed at the hearing in Tallahassee involving the same MC number and Titles 9 and 10, and I understand the point has never been decided by the Interstate Commerce Commission.

Examiner Yardley: It is also before the Commission in other sub-numbers, so the ruling would be the same.

Mr. Walker: I think all except this one.

Mr. Kitchen: I want to join in the motion—the McJunkin Bus & Truck Line and the R. C. Motor Lines wish to concur in joining the motion that was made by Mr. Walker and further say that this Commission should dismiss that application as the docket number is a clear manifestation of a coordinated service and there should be a consolidation of said application and heard at one time.

Mr. Steadman: In behalf of the K. & L. Transportation Company, I wish to concur in the motions made by Mr. Leo [fol. 1414] P. Kitchen and Mr. Stanton Walker.

Mr. Bliss: I also concur in their motion.

Chairman Matthews: The ruling will be reserved and the Board will proceed with the case.

W. L. STANLEY was sworn and testified as follows:

Direct examination.

By Mr. Oven:

Q. What, if any, position do you hold with the Seaboard Air Line Railway?

A. I am Vice-President of the Seaboard Air Line and chief public relations officer for the Receivers of that company.

Q. How long have you been connected with the system?

A. Thirty-seven years.

Q. State, to your knowledge, how long the line of railroad has been operated by the Seaboard Air Line as between Jacksonville, Yulee into Fernandina?

A. I don't know as I can give you the exact date of the construction, but it was one of the earlier railroads built in Florida and at one time it was considered practically the main line of the railroad from Fernandina through Jacksonville to Cedar Key, which ante-dates the Civil War.

Q. Has the Seaboard Air Line been operating trucks of recent years, and if so, how long?

A. For about six years, the Seaboard Air Line has been operating trucks, we have an operation in North Carolina, [fol. 1415] two in North Carolina, one in the State of Georgia and several in the State of Florida, the first operation that we had, as I recall, it began in 1932 in the State of North Carolina from Monroe to Hamlet, North Carolina, the next operation was started April 1st, 1933, for the handling of passengers, mail and express between Monticello and Drifton and others in Florida followed soon after that date, and some of recent certification.

Q. The Seaboard Air Line has had some five or six years' experience?

A. Yes, about six in the operation of truck lines.

Q. Didn't you obtain from the Railroad Commission of Florida a certificate to operate as between Yulee and Fernandina a truck on or about the 6th of October, 1935?

A. Yes, that truck is now being operated in the handling of intrastate freight business.

Q. Then, didn't you last year apply for a certificate, under Chapter 14764, as amended by the Legislature of 1935 of Florida, as between Jacksonville, Yulee and Fernandina?

A. That is right.

Q. Have you been operating a truck since the granting of your certificate?

A. Since that date and now that truck is being operated between Jacksonville and Fernandina, via Yulee in the handling of intrastate freight business only.

Q. Then, the purpose of this application here today is what?

[fol. 1416] A. The request of this application is that we be permitted to handle that truck on interstate freight.

Q. What is the policy of the system in general, Mr. Stanley, with relation to the operation of these trucks?

A. We have, from time to time, studied the various sections of our railroad, the Seaboard Air Line having approximately 4,400 miles of track in six states, to see where we can coordinate or improve our service by supplementing our rail service with motor vehicle service, exclusively for the handling of express and freight, not passengers; each territory is studied very carefully and where we feel we can improve that service or more economically expedite the movement of freight, we have sought to permit certificates from the State and Interstate Commerce Commission for authority to encourage such service.

Q. I hand you now a document which I will ask that it be marked for identification as applicant's Exhibit No. 1, and ask you to state what that is?

A. This is the annual report of the Receivers of the Seaboard Air Line for the calendar year 1937.

(Exhibit 1, Witness Stanley, marked for identification.)

Q. Will you read into the record from that report the pertinent portions of it showing the financial ability of the Receivers to operate this service here sought?

A. For the year 1937 the gross operating revenue of the [fol. 1417] Seaboard Air Line system was $41,502,866.96; its net railway operating income was $4,348,988.18; other income amounted to $380,355.32, and the total gross income of the railroad was $4,729,343.50; in other words, that last sum was the amount of money remaining after deducting from the gross operating revenue of the railroad, operating expenses, taxes, rentals and things of that kind, and which would have been applicable to the payment of interest on bonded indebtedness. In other words, the Receivers had $4,729,343.50 available to pay for the cost of operation of trains or trucks.

Q. I think you stated this truck is now being operated in intrastate commerce?

A. Yes.

Q. Then the handling of interstate freight on that truck would increase the cost very little, if anything?

A. Yes, I think that perhaps another witness, Mr. Sauls, is more competent to testify on that, but the truck is not handling anything but intrastate and the adding of the interstate would add very little to the expense of operation and also affect it economically, which Mr. Sauls will testify to.

I might say this, in connection with the question you have just asked me, that we have a good many purposes in our effort to inaugurate truck service, it varies with the sections of the line of railroad along which we seek to operate this truck service. In some instances, and in most [fol. 1418] instances the freight will be handled partly by train and partly by truck. Where this is the case, we can expedite the movement of LCL freight from large distributing centers to the smaller stations and deliver it very much more quickly than we can by the operation of trains; another thing that probably will result from it, certainly in many situations, is that local freight trains are now being largely operated in the daytime, due to the fact that the agents at smaller stations are on duty in the day. If we can operate these local freight trains in the night time it will enable us also to expedite the movement of carload freight, especially that which is assembled at smaller industries and smaller places. Instead of waiting over after the day's loading is completed until the local freight comes along the next day, it will be moved out a few hours after the loading is completed by the local freight, if it operates at night. Now then, the local freight trains, as a rule, switches small industries, sawmill plants and those of a similar character at the least important towns. Instead of interrupting the operation of those plants during the daytime, by placing cars and taking cars away from them, that switching will be done largely at night and when the plant itself is not in operation and afford that convenience and the saving of that expense to the plant itself. I just mention one or two of the things that we have generally in mind in trying to determine whether or not a truck operation in a particular territory

[fol. 1419] would be a desirable thing, either in giving better service to the public or in effect, economically——

Q. Mr. Stanley, does the operation of the freight trains handling carload shipments at night benefit the shipper in anyway, if so, how much?

Examiner Yardley: Are you able to operate from Jacksonville to Fernandina?

The Witness: Either way.

Examiner Yardley: All right.

The Witness: The sooner that you are able to get your carload freight to destination for delivery the following morning, the better it is, of course, for the receivers of goods. In this particular case, speaking of the operation between Jacksonville and Fernandina, there will be no curtailment of train service, there will be a material expedition of the handling of less than carload freight.

Cross-examination.

By Mr. Kitchen:

Q. What interstate freight can be anticipated of the volume for you?

A. There is another witness, Mr. Kitchen, that has those exact figures.

Q. I presume that he likewise will testify with reference to the financial report?

A. He won't testify to the financial report, I testified to that.

[fol. 1420] Q. What is the bonded indebtedness of the Seaboard Air Line Railway?

A. I will have to look and tell you, it is rather high, you will find the balance sheet on Page 15, Mr. Kitchen, of the exhibit which I just filed and while I would have to separate, if I deduct it or the common stock and so forth, all of those figures beyond there, I don't know unless I deduct it.

Q. That is all right, it is in evidence?

A. Yes.

Q. The net railway operating income of $4,348,988.18, did I understand you to say that that was paid on the bonded indebtedness?

A. No, I said it was available, it was not paid, it was available for payment on interest on bonded indebtedness; as a matter of fact, since the receivership of the Seaboard

Air Line, dating from December 23rd, 1930, no interest has been *has been* paid on the bonded indebtedness except a part on the underlying bonds of the railroad.

Q. And it is out of that net railway operating income that you allege financial ability to operate this freight line; in other words, the money is available for operation of additional trains or trucks?

A. Yes, something over four million dollars.

Q. Is there anything in this exhibit, which I presume is Exhibit 1, for the applicant, which would show a separation [fol. 1421] of cost of operation and revenue earned by trucks?

A. We consider the operation of the trucks as a part of the railroad plant and the revenue derived from the operation of the trucks goes into the gross earnings of the railway and the expenses of operating those trucks go into the operating expenses of the railroad, there is no separation of it.

Q. May I ask then, if you keep separate records for your truck companies?

A. We do not keep a separate record of the earnings or expenses, here and there some of our superintendents, in order to be advised of the cost of operation, have kept such a record but it doesn't go into the records of the company.

Q. With reference to shipments, do you keep a separate record of shipments, not including income, separate and apart from your railroad records?

A. No record except that may be kept here and there by an agent, it doesn't go into the general accounting of the railroad, we consider it a part of the railroad; in other words, it would be almost impossible to do that, it would involve the keeping of two separate accounts, it would involve the separation of earnings of rail and highway carriage, where it was handled by rail partly and by truck partly.

Examiner Yardley: If the Interstate Commerce Commission does grant you a certificate, then you will keep your records in accordance with their rules and regulations?
[fol. 1422] The Witness: Yes, of course.

Q. That was what I was getting at—Mr. Stanley, do you publish a separate tariff?

A. We have but one tariff and that is our rail tariff and our charges, regardless of whether the haul is by rail or truck, is the same.

Q. How is the public to be advised as to whether or not a shipment will move by truck or rail?

A. I don't think the public is interested in it, all they are interested in is getting their freight moved as quickly as possible.

Q. You don't think the public is entitled to know of the transportation facilities you use?

A. If I make a shipment from point A to B, it doesn't make any difference to me, just so it is safely and substantially handled, if it is moved by wheelbarrow——

Q. Assuming I was a shipper and was opposed to the use of trucks for the transportation of my merchandise and I favored railroad transportation, for that reason I favor railroad transportation I turned the shipment over to the Seaboard Air Line, how may I know that is transported by rail or truck?

A. There is no way that the shipper, unless he happens to investigate it, can tell whether it moved by rail or truck.

Q. Isn't that deceiving the public?

A. No, because as I understand it, the public is interested [fol. 1423] in the broad question of transportation, the expeditious moving of the traffic.

Q. And you think the public is not interested in the facility in which it is used?

A. I don't think they care an iota, the public——

Q. And in order to serve such public wants and needs, is that the reason for the establishment of this truck line?

A. I have stated in the beginning that we had two purposes, first to expedite through this coordinated service the movement of freight, and second, to effect economy wherever possible to do so.

Q. Then is it the position of the Seaboard Air Line Railway or its receivers, I should say, that in filing an application for a truck line service, that it is giving a more expeditious service to the public?

A. In certain instances, yes, as we think would appear from the testimony that will be introduced in this particular application.

By Mr. Bliss:

Q. You used the word "coordinated", I believe, in your direct testimony, did you mean coordinate between carriers operating different means of transportation facilities?

A. I meant coordination between our operations by rail and our operations by truck.

Q. You stated that the handling of interstate freight will cost but little, are you prepared to substantiate that with [fol. 1424] detailed figures?

A. I said there would be a witness who would give these figures, but inasmuch as we were now operating a truck between Jacksonville and Fernandina, handling intrastate business, which was not loaded to its capacity, that it was obvious that the additional interstate traffic which we would put on that truck would increase the cost of operation but little.

Q. As I understand it, you make the selection of rail or truck service rather than leave that choice to the shipper?

A. When the shipper delivers a shipment to move between two points, it is our opinion that he is only interested in getting it from one point to the other and as promptly as possible and it doesn't make any difference to him by what instrumentality it is moved.

Chairman Matthews: Mr. Bliss, don't get over the same ground.

Mr. Bliss: I was expecting a yes or no answer.

The Witness: You can't answer those questions yes or no.

By Mr. Steadman:

Q. Mr. Stanley, in the beginning, I believe you stated that the Seaboard Air Line is a corporation?

A. Yes, it is now in the hands of the receivers.

Q. Chartered under the State laws of Virginia?

A. Virginia, North Carolina and other states, I just don't know which ones exactly.

Q. Do you know whether or not the charters that the cor- [fol. 1425] poration holds in the various states provide they shall be entitled to run trucks?

A. I don't know about that, I do know the court appointing the receivers has authorized them to put on truck lines wherever in their judgment they think they should be established and can get certificates for them.

Q. Do you know whether or not the courts in giving that permission considered that fact or investigated it thoroughly?

A. I don't know what actuated the court in doing it.

Q. I notice in your exhibit here, one item, I would like for you to explain, if you please: "Continued operation of pick-up delivery trucks", Page 7, under "Revenue and Expenses", the next to the last paragraph, continued operation of pick-up and delivery service has enable the Seaboard Air Line to handle a substantial volume of LCL that otherwise would have moved by truck. Do I understand that by the inclusion of that in the record that it is the purpose of the Seaboard Air Line to deprive the trucks of all the tonnage they possibly can?

A. We hope to get all of the business that it is possible for the best service that we are capable of rendering, to control, that is all I can say.

Q. Do you propose then at anytime in the future to enter into any negotiations with the truck lines with the idea of joint rate arrangements?

A. At present, we have no such intention.

[fol. 1426] Redirect examination.

By Mr. Oven:

Q. If this certificate applied for here is granted, will the receivers abide by all the rules and regulations of the Interstate Commerce Commission imposed upon them so far as the operation of the trucks is concerned?

A. They will.

Chairman Matthews: The proposal here is to offer station to station—as you are operating your intrastate?

The Witness: Yes, in other words, to render interstate service that we are in the same manner rendering intrastate service.

Recross-examination.

By Mr. Steadman:

Q. In the event that this application is granted, would the Seaboard Air Line be willing to enter into joint arrangements with the K. & L. Transportation Company?

A. It would not.

By Mr. Bliss:

Q. Do you have through water and rail rates from New York and via Jacksonville?

A. I am not a rate man, I think now that we have, I am quite positive we have, but I am not a rate man.

Q. Would you apply those rates in connection——

A. In other words, whatever rate applies by water and rail from New York to Florida today, where our haul is solely by rail, would also apply if our haul was partly by truck, we are not charging the rates, we are simply charging [fol. 1427] for a shorter distance, the method of convenience.

Q. Partly by truck and not at all by rail?

A. It might come in by rail from some place but if by water LCL shipments to Jacksonville we would probably handle it exclusively by truck from Jacksonville to Fernandina.

By Mr. Steadman:

Q. Have you made a survey or will you show by witnesses who have made a survey, as to the amount of potential tonnage there will be to move?

A. There will be witnesses who will testify as to the amount of intrastate freight and interstate freight, less than carload, moving both by truck and rail between Jacksonville and Fernandina today.

Chairman Matthews: Any further questions of this witness?

Mr. Oven: I have none.

(Witness excused.)

W. H. Simms was sworn and testified as follows:

Direct examination.

By Mr. Oven:

Q. Is this Mr. W. H. Simms?

A. Yes.

Q. Where do you live, Mr. Simms?

A. Fernandina, Florida.

Q. What, if any, connection do you have with the Seaboard Air Line system at Fernandina?

A. Local agent.

[fol. 1428] Q. How long have you held that position?

A. Since February 1931.

Q. I hand you herewith a paper which has been marked Exhibit No. 2, Sheet No. 1, and ask you to state what that shows?

A. Sheet 1 covers intrastate LCL freight handled by highway truck from Jacksonville to Yulee and Fernandina from November 20, 1937, to June 15, 1938, both inclusive.

(Exhibit 2, Witness Simms, marked for identification.)

Q. Now, this service began in November, 1937?

A. Yes.

Q. What does this sheet No. 1 show as to the total number of truck trips between Jacksonville and Fernandina?

A. 175.

Q. What does it show as to the total tonnage?

A. It shows it handled 854,194 pounds.

Q. What is the average total then per trip?

A. 4,864.

Q. Now, that is tabulated from November 20, 1937, down to June 15, 1938, inclusive?

A. Yes.

Q. And is solely intrastate freight?

A. Yes, sir.

Q. Now, I hand you sheet 2, what does that show?

A. It is a statement of intrastate less carload freight handled by highway truck from Fernandina to Yulee and [fol. 1429] Jacksonville from November 20, 1937, to June 15, 1938, both inclusive.

Q. In short, that is the southbound movement?

A. Yes.

Q. Intrastate freight?

A. Yes, sir.

Q. How many trips?

A. 175.

Q. Total tonnage?

A. 190,204 pounds.

Q. Average tonnage?

A. 1,160 pounds.

Q. Now, I hand you sheet 3 of Exhibit 2 and ask you to state what that is?

A. Sheet 3 covers interstate carload freight handled in cars by rail from Jacksonville to Fernandina from November 20, 1937, to June 15, 1938, both inclusive.

Q. That is northbound interstate freight?

A. Yes, sir.

Q. Which moved by train only?
A. Yes, sir.
Q. Now, what is the total number of cars
A. 293.
Q. Total weight?
A. 2,213,485 pounds.
Q. Average weight per car?
[fol. 1430] A. 7,761 pounds.
Q. Now, I hand you sheet 4 of Exhibit 2 and ask you to tell us what that is?
A. Sheet 4 of Exhibit 2 represents interstate less carload freight forwarded from Fernandina to Jacksonville from November 20, 1937, to June 15, 1938, inclusive in cars by rail.
Q. That is southbound?
A. Yes.
Q. Interstate?
A. Yes.
Q. That shows how many cars?
A. 77.
Q. Total tonnage?
A. 316,527 pounds.
Q. And the average tonnage per car?
A. 4,367.
Q. Now, I hand you sheet 5 of Exhibit 2 and ask you to state what that is?
A. Sheet 5 is a summary of all LCL freight handled from Fernandina to Yulee and Jacksonville, by both truck and in cars from November 20, 1937, to June 15, 1938, both inclusive.
Q. That then is the summary as to inbound freight or northbound freight of sheets 1 and 3 and as to outbound or southbound?
A. Well, on the first section, that is a summary of out-
[fol. 1431] bound freight, southbound as covered by sheets 2 and 4, sheet 2 is represented on this summary as representative of intrastate, which is the 190,204 pounds covered by sheet 2.
Q. And that was handled by truck?
A. Yes.
Q. And now sheet 4 is the total of LCL freight interstate?
A. Interstate, yes.
Q. And that shows 316,527 pounds?
A. Yes.

Q. Or a total of 506,731 pounds?

A. Yes.

Q. And the average load per truck outbound would be what?

A. Per truck trip would be 2,895 pounds.

Q. Now, with reference to inbound?

A. Handled by truck, sheet 1, intrastate, 854,194; handled in cars, sheet 3, interstate, 2,213,485 pounds, that makes a total of 3,067,679 pounds or an average load per truck trip, assuming that it was all handled by truck, of 17,529.

Q. Then, in short, the combination of the LCL interstate freight handled now by rail and the LCL intrastate freight handled now by truck would, as a matter of fact, just about make a good healthy truck trip load each way, would it not?

A. Particularly inbound.

Q. Now, this inbound interstate commerce freight, from where does it come?

[fol. 1432] A. It originates all over the country, however, it is consolidated at Jacksonville and is loaded by the Jacksonville Forwarding Agency.

Q. It goes into Jacksonville over the Seaboard Air Line?

A. Yes, and other lines.

Q. That then is freight that would naturally be turned over to the Seaboard Air Line for delivery at Fernandina?

A. It is handled into Jacksonville by carriers other than motor carriers.

Mr. Kitchen: Mr. Chairman, I hate to interrupt at this particular point, but I would like to inquire as to whether or not counsel for the applicant has supporting papers in which we may examine in support of the said tabulations and testimony as given by the witness.

Mr. Oven: I will answer that question very promptly. We haven't it here, I will ask the witness this question.

Mr. Kitchen: Just a minute—Mr. Chairman, in view of the answer of counsel that he has no supporting evidence, in forms of way bills or any other manner of proof to substantiate said tabulations, I object to the testimony of the witness and move that it be stricken from the record, and completely deleted and in support of said motion say that the protestants are deprived of the right of cross examination and deprived of the right of being appr'sed with the

documentary evidence in support of said tabulation through-
[fol. 1433] out all of these hearings involving motor carrier and this is a motor carrier application. This Commission—this Interstate Commerce Commission and this Board, upon which you, as Chairman, have sat in Board 205 and Board 64 and various others, and this Examiner, it has been the practice and the required procedure that such tabulation be substantiated with proof. Such proof is not offered and we are deprived of the right of cross examination; I again renew the motion to strike the testimony and delete the same from the record and in fairness to the applicant ask if he wishes additional time to comply with the procedure as has previously been followed by the Interstate Commerce Commission and its various state boards, that we will not object to a postponement of this hearing for such purpose.

Mr. Oven: Mr. Chairman, it rather looks as if I possibly put the cart before the horse. Before any ruling is announced I would like to interrogate Mr. Simms as to where he got these figures.

Chairman Matthews: All right.

Q. Mr. Simms, who prepared these sheets, one, two, three, four and five for the Exhibit No. 2?

A. I did, personally.

Q. From what did you obtain the data appearing on these sheets?

A. From the original records on file in the office of the Seaboard Air Line Railway at Fernandina, of which I am
[fol. 1434] the custodian.

Q. Is this a true and correct reproduction of what they show?

A. Yes.

Mr. Oven: We now offer the same evidence as we have offered heretofore.

Mr. Kitchen: I renew that motion, it is clearly following the procedure that is required of motor carriers.

Examiner Yardley: You are telling the Board what it has done in the past and what the Examiner has done and I think the Chairman will deny your motion.

Chairman Matthews: The motion will be denied and you may proceed.

Mr. Kitchen: I further move to strike from the record and object to the introduction into evidence of sheet 1 of

said exhibit and sheet 2 of said exhibit as being immaterial, irrelevant and incompetent, same clearly showing an intrastate movement and has no relation or bearing to this application praying for interstate operation.

Chairman Matthews: Overruled.

Cross-examination.

By Mr. Kitchen:

Q. Where do you get the volume of interstate freight, where does it originate that is shipped into Florida?

A. Briefly speaking, from eastern seaport cities and [fol. 1435] Pacific Coast cities, it covers practically the whole United States.

Q. What comprises most of the commodities shipped into Fernandina?

A. It is a general line of merchandise, including what would be termed groceries or provisions, dry goods, notions, hardware, building materials and commodities of similar character, machinery and machinery parts and so forth.

Q. Does the majority of that freight move by carload or less than carload lots?

A. All of the freight covered by these statements moved as LCL.

Q. On your outbound freight from Fernandina, what did you say was the volumne, interstate freight only?

A. That is covered by sheet 4, the volume was 316,527 pounds.

Q. That is by rail, isn't it?

A. Yes.

Q. What volume do you transport now by truck in interstate commerce?

A. What part by truck?

Q. Yes.

A. None.

Q. What comprises the greater portion with reference to commodities of the freight shipped from Fernandina?

A. Canned shrimp, oysters, fish meal, a considerable portion of it returned empty; oxygen and acetylene gas tanks [fol. 1436] and miscellaneous other freight.

Q. What proportion of your outbound freight was pogy fish or pogy fish products?

A. Well, I should say about ten per cent.

Q. Ten per cent?

A. Yes, it probably would not exceed seven and a half per cent of the total outbound freight.

Q. How many carloads of fish meal did you ship for the fish meal company a month?

A. It varies during the season, from thirty to as high as 130.

Q. Carloads a month?

A. Yes.

Q. How many pounds is there in a carload?

A. The minimum for fish meal is 18 tons and on fish scraps used for fertilizer purposes is 20 tons.

Q. Approximately how many carloads do you ship out during a month for the Nassau Fertilizer Company?

Examiner Yardley: Just what is the purpose of the carload shipments, Mr. Kitchen?

Mr. Kitchen: He has introduced an exhibit in there showing the recapitulation of all the freight as having been transported to and from Fernandina and I want to show the majority of it is not such freight as is applicable or suitable to be transported by truck.

[fol. 1437] The Witness: Will you let me say that these figures are less carload freight only.

Mr. Kitchen: I am sorry then, that was my interpretation.

Examiner Yardley: I would like to know from this witness how many freight trains you operate in each direction daily?

The Witness: One round trip a day.

Q. How many schedules per day does your truck operate?

A. One round trip.

Q. What hour in the day does it operate?

A. It leaves Jacksonville at six-thirty a.m., scheduled to arrive at Fernandina at eight; it leaves Fernandina at four p.m., and is scheduled to arrive in Jacksonville at five-thirty p.m., week days only.

Q. A shipment originating today in Richmond, Virginia, destined for Fernandina, Florida, by rail, less than carload shipment, what day would it be delivered in Fernandina?

A. I think, Mr. Kitchen, you would perhaps rather develop that fact from the division superintendent who is

present; that schedule approximately, that is the third morning delivery or the fourth morning.

Q. How much quicker could that delivery be made by the inauguration of an interstate trucking service?

A. Under the present operating conditions that shipment could be loaded at Jacksonville and handled out of Jacksonville to Fernandina by car, arriving at Fernandina be-
[fol. 1438] tween eight-fifteen in the morning and, say, ten-thirty in the morning, or possibly eleven o'clock; by truck the same shipment, if handled from Jacksonville, would be in Fernandina at eight o'clock.

Q. A matter of two or three hours?

A. On that particular instance, yes.

Q. How far is it to Fernandina by road from Jacksonville, do you know?

A. It is supposed to be 34 miles.

Q. So your coordinated truck service over such a short distance would make very little difference in time, is that correct?

A. Well, it depends upon the direction in which the shipments move.

Q. What is your train schedule from Fernandina, do you know it?

A. The present schedule is Train 158 and 157—158 is due to arrive at Fernandina at eight-fifteen a.m., it is scheduled to depart at eight-forty-five a.m.

Q. Please repeat again your truck schedule?

A. At six-thirty from Jacksonville, arriving Fernandina at eight.

Q. That is fifteen minutes difference in the arriving time of train and truck?

A. The schedule time?

[fol. 1439] Q. Yes, you operate on schedule?

A. No, these trains—158 is the train into Fernandina and it sometimes handles heavy tonnage, its average arrival is from ten to eleven and sometimes as late as twelve, due to heavy tonnage, and to our having to stop along the road and unload LCL freight moving in interstate traffic.

Q. How long have you lived in Fernandina?

A. Since the first day of March, 1904.

Q. You are fairly well familiar with the business concerns in Fernandina?

A. Yes.

Q. Would you mind naming some of them for the benefit of the record?

A. The D. A. Kelley Company, general store, and Kelley Bros. Company.

Q. Is that the same store?

A. No, it is a general store, that is a grocery store; the Standard Hardware Company, A. S. Allen Dry Goods Company, Patterson Five to Ten Cent Store and R. B. Lockwood Drug Store.

Chairman Matthews: We will have a recess for a few minutes at this time.

(Short recess.)

Q. Mr. Simms, before we took a short recess you were naming the number of business and industries in Fernan- [fol. 1440] dina, just to make it short, what is the population of Fernandina?

A. The last census was 3,034 people.

Mr. Kitchen: No other questions.

By Mr. Biiss:

Q. In making up these figures, how do you define the LCL shipments, for instance, there are some commodities that move in Florida under an any-quantity rate?

A. By the size of it, the weight of it.

Q. If you had a shipment of grain that moved tenth class any-quantity, how much would that shipment have to be to be called a carload shipment?

A. Grain and grain products doesn't all move on any-quantity rates.

Q. Some of it does?

A. With this distinction, less than carload shipments require certain packing and tagging that carloads do not.

Q. Didn't you have some way of distinguishing between a certain number of pounds moving out any-quantity rate LCL and a certain greater number of pounds in carload shipments?

A. Tariff and classifications publish the minimum carload on grain and grain products.

Q. But if such a tariff——

Examiner Yardley: Can we shorten it this way—you stated you shipped sometimes by the weight—what is the minimum weight?

The Witness: That would be determined by the classifica-
[fol. 1441] tion or tariff minimum, carload and LCL shipments.

Q. There are such things as any-quantity rates?

A. Yes, but an LCL shipment would be determined by the very nature of the shipment itself.

Examiner Yardley: All shipments that were charged with the LCL rate?

The Witness: Yes, that were covered by this statement.

Q. If you had a shipment of 60,000 pounds which was assessed tenth class rate and you could have taken from that shipment 200 pounds and shipped it at the tenth class rate, would you call that an LCL shipment?

A. 200 pounds?

Q. Would you call this 60,000 pounds——

A. A carload.

Q. Where is the dividing?

A. The classification provides the dividing line.

Examiner Yardley: None of these shipments that you have in mind are included.

Q. You took the straight average in each case, did you not?

A. How do you mean?

Q. By dividing in this case on your sheet 1, total tonnage by the number of trips?

A. Yes.

Q. Do you have available the greatest number of pounds on a single trip or the least?

[fol. 1442] A. I would say no, for the reason that the figures as here given are by months or portions of a month and I couldn't say what the greatest number of pounds in any one car on any one day or the greatest number of pounds on any one truck in any one day happened to be.

Q. Did you have any shipments in intrastate commerce that moved between Jacksonville and Fernandina by rail LCL?

A. If so, they were included in the interstate traffic, I don't think so, however.

Q. Isn't it reasonable to presume that you would have had a few pounds of interstate that would have moved by rail?

A. It is probable.

Q. Intrastate, I mean?

A. Yes.

Q. You say that is included with the interstate traffic?

A. To the extent that such intrastate, less than carload freight, did move in the car, but that would be a very small figure.

Q. Did you make these compilations from sheets showing the weight unloaded from each car or truck?

A. From the billing.

Q. You have marked the billing but don't know whether it moved by truck or rail?

A. It shows that.

Q. A shipment is billed differently if it is rated by a truck?

[fol. 1443] A. Nothing except the car number—in other words, a shipment loaded in a car would have the car number on the way bill, if loaded in the truck it has the truck—

Q. So you picked out from those, and I assume that all the intrastate shipments moved by truck?

A. No.

Q. All the LCL moved by truck?

A. No, I gave the exact tonnage that the truck did handle without any estimation at all, in other words, it was made up from the records showing it was moved from Jacksonville to Fernandina by truck.

Q. Now you show truck trips approximating 25 per month, that is one every week day, is it not?

A. Yes.

Q. Did you ever have two?

A. No, sir.

Q. On sheet 3 where you show the number of cars you sometimes have as many as 50 or 51 cars, that would mean that some days there would be two cars handled LCL freight?

A. Yes.

Q. During the month of December your average is shown as 5,000 and a fraction pounds per car, that would be less than capacity?

A. Very much.

Q. And yet you used 50 cars, could you explain that?

[fol. 1444] A. Light tonnage.

Q. You mean bulky?

A. Light commodities, yes.

Q. Well, do you mean bulky?

A. Light in volume and bulky both.

Q. About how long were the cars that you used?

A. From 36 to 50 feet.

Q. They are larger than truck bodies, then?

A. Yes.

Q. A shipment that would be bulky in a freight car and require an additional car would be certain to require an additional truck trip?

A. Depending on the size, there are, of course, certain commodities that would be so bulky that they wouldn't go in the average truck, in fact, they would require a special large car.

Q. You do not have available or do you have available, even for a short period, such as a month or a part of a month, a trip record of your trucks, tonnage per truck?

A. That is on file in the office in Fernandina.

Q. I thought you said you compiled the figures from the way bills at the end of the month?

A. That can be broken down to cover each day.

Q. Could you supply for a reasonable period tonnage by trips, say, for more than a month?

[fol. 1445] Mr. Oven: You have got it there by months.

Mr. Bliss: We would like to know the range, for instance, 40,000 one day and 200 the next.

Mr. Oven: He has told you in any case as he used over one truck a week.

Examiner Yardley: My understanding was it was one truck a day.

Mr. Bliss. Perfectly true, but frankly we believe and we now believe after this cross examination that we can prove that he will need to have two trucks in order to take care of his interstate freight.

Chairman Matthews: Mr. Bliss, would that affect the question of convenience and necessity, the application is not for just running one truck a day.

Mr. Bliss: There has been a statement made on direct examination, I believe, by both witnesses, to the effect that it will not cost them much, if anything, to handle this freight. Now, without admitting that that substantiates their application, we seek the question that they won't incur any additional out-of-pocket expense—we believe a little more tonnage will show it will be necessary for them to have two additional trucks.

Mr. Oven: If we do, we have got business enough to pay for it.

Mr. Bliss: That doesn't change the proposition.

[fol. 1446] Q. Mr. Simms, can you furnish us, for the month of January, 1938, the same material as shown in sheets 1 to 4 of your Exhibit 2, broken down by truck trips and cars?

A. Yes.

Q. Showing the weight handled on each truck trip and loaded in each LCL car?

A. Yes.

Chairman Matthews: You can furnish that within twenty days?

The Witness: I assume I can.

Chairman Matthews: Will you supply that to the Examiner and——

Examiner Yardley: Send it to Judge Oven and he will forward it on—see that all parties get a copy.

Mr. Oven: That will require four copies?

Examiner Yardley: Also the Examiner wants a copy?

Mr. Oven: I am going to give you the fourth, Mr. Walker makes the third man, better make six copies then.

(Above information to be furnished within twenty days.)

Q. Do you forward or receive LCL cars from or to any points except Jacksonville?

A. No.

Q. These exhibits then show all of the LCL freight going into and coming out of Fernandina, or is a little freight for intermediate points?

[fol. 1447] A. Not included in those figures.

Q. In addition there is freight to and from the intermediate points?

A. There may be that I have no knowledge of, but not in these figures here.

Q. Does your agency handle billing for any of the intermediate points?

A. No.

Q. Do you have a pickup and delivery truck stationed at Fernandina?

A. Yes.

Q. More than one?

A. We have two trucks in operation, yes.

Q. Besides the line haul truck?

A. We have a line haul truck that operates between Fernandina and Yulee, that line, however, is not involved in this proceeding.

Q. What does the line from Yulee to Fernandina handle?

A. Railway Express stuff and baggage.

Q. It doesn't handle any of the shipments known as freight?

A. No, sir.

Q. Do the line haul trucks do the pickup and delivery in Fernandina?

A. Yes, that is, a portion of it, shippers and receivers do some of their own delivering and pickup.

[fol. 1448] Q. You have no equipment in Fernandina solely devoted to pickup and delivery?

A. No.

Redirect examination.

By Mr. Oven:

Q. Mr. Simms, over what route will this proposed operation be?

A. Direct.

Q. I want the numbers of the routes to identify it in the record.

A. U. S. 17 or State Road 3—I may be wrong on the State Road, from Jacksonville to Yulee and State Road 13 from Yulee to Fernandina.

Q. Along any other routes?

A. No, sir.

Recross examination.

By Mr. Steadman:

Q. What other intermediate points besides Yulee, between Jacksonville and Fernandina?

A. I don't think we handle any at all except Yulee.

Q. At the beginning of your testimony you stated, I believe, that it proved a convenience to you because of the fact that the train didn't get there on schedule, because it had to discharge freight at the intermediate points?

A. I was speaking of the truck line in my first answer, in my second answer there are several stops between Bald-

win and Yulee, however, there is another witness who will [fol. 1449] testify as to that.

Q. Where does Baldwin come into the picture, I thought you said the train operated between Jacksonville and Fernandina?

A. No.

Q. Where?

A. Between Baldwin and Fernandina.

Q. Then you have no rail service from Jacksonville to Fernandina?

A. Yes.

Q. How does it operate?

A. Direct.

Q. From Jacksonville to Fernandina?

A. Yes.

Q. Then Baldwin is not material then?

A. Well, the service—in your first question, Baldwin is material, in other words, the westbound serving Fernandina is operated from Baldwin to Fernandina and return.

Q. Where does this 158 and 157 operate?

A. Between Baldwin and Fernandina, 158 to Fernandina and 157 from Fernanadina.

Q. What is the train from Jacksonville to Fernandina known as—you don't have any train service?

A. No.

Q. Then a shipment that would leave Jacksonville by the Seaboard Air Line, if it went by rail, would have to go by [fol. 1450] Baldwin and transfer and then go out from Baldwin?

A. It wouldn't transfer, but this is the way it would be handled, the car would move by Baldwin.

Q. What particular advantage would it be to you on behalf of the customers that you have there, to have truck service?

A. I am glad you asked me that question. As No. 157 and 158, being local freight trains, the arrival or departure depends largely upon the tonnage handled. No. 158, as I testified before, is due at Fernandina at eight-fifteen a.m., its usual performance is nine-thirty to ten-thirty, and in some instances as late as twelve, depending upon the tonnage handled; No. 157 which is scheduled to leave at eight-forty-five a.m., its departure is dependent upon the volume of business brought into and to be handled at the terminal at Fernandina.

Q. It is supposed to leave at eight-forty-five?
A. Its actual departure is eleven-thirty to twelve-thirty.
Q. Scheduled at eight-forty-five?
A. Yes.
Q. When does it arrive and where?
A. At Fernandina.
Q. I mean when it departs?
A. At Baldwin.
Q. What time?
A. Well, if it left Fernandina at eight-forty-five, then it [fol. 1451] would be over there about eleven-forty-five, it is about three hours.
Q. Handling of carload shipments from Jacksonville to Fernandina—would that be handled—how would that be handled?
A. I would prefer to have Mr. Sauls answer that question.
Q. You are the agent there?
A. Yes sir, but my jurisdiction doesn't extend beyond the yard.
Q. In solicitation of freight you have to advise your customers when and where the delivery would be expected?
A. I could tell them what time it would be expected at Jacksonville——
Q. How would it be handled?
A. LCL out of Fernandina received prior to the departure of 157 on any given day leaves on 157, it is my understanding that the car in which it is loaded is at the receiving warehouse in Jacksonville at the beginning of the business day, the following day.
Q. Overnight service then?
A. Yes.
Q. When it gets here you offer pickup and delivery service at Jacksonville?
A. You will probably want to develop that from Mr. Sauls.
Q. You are familiar with the tariff?
[fol. 1452]. A. The tariff provides for pickup and delivery at Jacksonville.
Q. You could give approximately the same service insofar as a business house is concerned by moving these LCL shipments by rail?
A. No. LCL freight received from Fernandina up to four p.m. is moved by truck intrastate at the present time

and arrives at Jacksonville at five-thirty p.m., by forwarding to final destination, if beyond Jacksonville, that night. If it is in the State of Florida, now if I had an interstate shipment received at Fernandina, after the departure of 157, it would of necessity layover in my warehouse until twelve or the departure of 157 the following day and is in Jacksonville the morning of the second day, the thing to bear in mind is that if this LCL interstate*ment* shipment could leave Fernandina at four p.m. and be in Jacksonville at five-thirty and out of Jacksonville during the night, it would save anywhere from twenty-four to forty-eight hours and in case of a Sunday or holiday as much as seventy-two.

Q. Wouldn't it be possible in that the solution of your problem would be the change in schedule of your trains?

A. I think you had better ask Mr. Sauls that.

Q. Well, your personal experience?

A. You have other things to consider in doing that.

Q. We are asking about schedules, you are trying to con- [fol. 1453] vey the thought that it is essential that this truck service be maintained, it is essential that you have a truck service whereby if you had this schedule you could get the same results, couldn't you, if you had a train leaving there at four it would give you the same thing?

A. No.

Q. Why?

A. For the reason that the car would not be available at the receiving warehouse in Jacksonville until practically eight the next day.

Q. Why?

A. It would be an overnight run from Fernandina, say it leaves at seven or eight, or even at four, the car could not be moved into Jacksonville and spotted at the receiving warehouse in time to handle it that night.

Q. Then, it is a matter of operation, is it not?

A. Economical expedited service.

Q. Then the real thing is this, it is not a source of convenience to the public but a source of convenience to the Seaboard Air Line?

A. I wouldn't say that.

Q. I just stated if you changed the schedule to comply with the schedule that the Seaboard Air Line operates out of Jacksonville, if you could get the same thing as you get by putting on the truck?

[fol. 1454] A. I stated distinctly that if the car left Fernandina that it could not be at the warehouse in Jacksonville, under ordinary operating conditions, the same day it left Fernandina——

Q. When you say ordinary operating conditions, you mean the schedules that are in effect now?

A. Any schedules that might be in effect from a practical railroad standpoint.

Q. How long would it be scheduled moving from Fernandina into Jacksonville?

A. From two to three hours under the best of conditions.

Q. Then it is quite possible by manipulation of schedule, you can effect by rail the same schedule that you can effect by truck now?

A. No.

Q. For what reason?

A. I have just stated my reason, I said I can run a truck from Fernandina to Jacksonville in one and one-half hours, I don't think that is a possibility and I would say it is not, to run a railroad train there, with the cars switched out through the terminal and get it to the warehouse in time for the agent to forward it out that night.

Q. It is just a matter of changing your operation in order to comply with the convenience of moving this freight from Fernandina to Jacksonville?

A. No.

[fol. 1455] Q. Isn't that right?.

A. No.

Mr. Steadman: That is all.

Redirect examination.

By Mr. Oven:

Q. All cars that are spotted are given time?

A. Yes.

Q. And when a train gets in here the engineer cuts off and then a switch engine takes it and puts it at various places?

A. Yes, sir.

Q. And to get it at the warehouse the LCL stuff, it has either got to be unloaded or transferred the next morning?

A. Provided it gets in in the late afternoon or in the night.

Q. You can't run that car carrying that LCL freight

from the depot at Fernandina into a warehouse at Jacksonville?

A. No.

Q. Now, in reference to schedules, other schedules have to be controlled in a railroad system?

A. That is what I meant by my answer awhile ago.

Q. Now, the gentleman asked you something about pickup service in Jacksonville, if freight is consigned to Jacksonville from Fernandina that would be delivered by the pickup and delivery service here?

A. Yes, sir.

Q. That would be an intrastate movement?

A. Yes, sir.

[fol. 1456] Q. Now, if consigned from Fernandina through Jacksonville to points beyond, moving by this truck, there would be no use of a pickup and delivery service here in Jacksonville?

A. Not for that particular shipment.

Q. Or any other interstate shipment?

A. No.

Recross-examination.

By Mr. Steadman:

Q. Have you inquired or have you had any inquiries from anybody in Fernandina that expressed a desire that the Seaboard Air Line put on a truck?

A. They haven't exactly importuned us to put on a truck, but they have said it would be desirable from the standpoint of receiving and hauling the freight.

By Schwartz:

Q. Mr. Simms, this operation from Yulee to Fernandina was commenced after October 15, 1936, wasn't it?

A. From Yulee to Fernandina?

Q. Yes.

A. No.

Q. October 15, 1935—I beg your pardon?

A. That service was originally——

Mr. Oven: That is all in the record now when these operations started.

Mr. Schwartz: I just wanted the exact date—it was after October 15, 1935?

Mr. Oven: That was the operation that the railroad [fol. 1457] commission permitted and then under House Bill 138 service was granted to Jacksonville.

Mr. Schwartz: By your Exhibit 2 you show from November 20 to June 15, 1938?

Mr. Oven: That is the Jacksonville-Fernandina operation.

By Mr. Schwartz:

Q. What I am interested in is from Yulee to Fernandina —that was started after October 15, 1935?

A. I am just a little puzzled by that question, I am not prepared to answer that question definitely.

Q. That operation meets both north and southbound trains at Yulee?

A. Yes, some of them.

Q. And it handles express off those trains and mail and passengers?

A. Yes.

Q. That is interstate express?

A. Yes.

Q. You won't say whether that was commenced before October 15, 1935?

A. My memory doesn't serve me as to the exact date, however, the issuance of the certificate would show it.

Q. If I should state to you that by order No. 795 of the Florida Railroad Commission, Docket 216, under date of October 16, 1935, the Seaboard Air Line was granted an intrastate certificate to render substituted service by truck or [fol. 1458] bus or combination as between Yulee and Fernandina, you would not deny that, would you?

A. I have no information on it.

Q. Do you know whether or not there is an application pending on that particular operation before the Interstate Commerce Commission?

Examiner Yardley: I don't think he is in position to testify as to that, he is the agent at Fernandina, I doubt if he knows the affairs of the Seaboard Air Line.

The Witness: I do not know.

By Mr. Steadman:

Q. How many in the personnel of the agency at Fernandina?

A. Myself and two others.

Q. Just yourself and two others, that makes three in all?

A. Yes, sir.

Q. Does that include the truck drivers and helpers too?

A. Your question was as to the agency?

Q. Yes.

A. No, that doesn't include them.

Q. How many drivers do you have?

A. One on the Jacksonville-Fernandina line and two on the Fernandina-Yulee line.

Q. You mentioned about having two trucks in Fernandina, is there any additional men working there other than the six you have mentioned, or how about the two trucks in Fer-
[fol. 1459] nandina that you included?

A. Yes, three drivers, two drivers on the Fernandina-Yulee line and one on the Jacksonville-Fernandina line, that is three.

Q. That is six altogether?

A. Yes, we have a colored warehouseman.

Q. That is seven, do you have any other help?

A. No, sir.

Q. Just actual labor?

A. Yes.

Q. Then the statement that you made that you had two trucks in Fernandina to make pickup and deliveries, they are not stationed at Fernandina alone for that purpose?

A. No.

Q. Shipments that might originate, say in Waycross, Georgia, that would move into Fernandina, would be delivered by those trucks?

A. In Fernandina?

Q. Yes, if the customer didn't call for it and availed himself of the five cents a hundred rate, that would be delivered——

A. One or the other.

Mr. Kitchen: Before this witness is taken off the stand, I request, in behalf of the protestants, that we be allowed to go to Fernandina and that the records upon which these tabulations are made will be available to one of the protest-
[fol. 1460] ants, to examine and compare with the said tabulation.

Mr. Oven: We object to that, we don't care to have anybody going through our records—we will furnish, under

oath, the testimony so far as the tonnage is concerned, but we can't be——

Mr. Kitchen: Then I renew the motion to strike the testimony and exhibits as given by this witness, as the protestants have not had an opportunity to examine and have been refused this opportunity to cross examine or to see the originals from which the tabulation is made.

Mr. Steadman: I might make this statement, as information, that I found that individual freight bills supplied information as to the cost of operation and if the Board could see fit to consider having the applicant provide something tangible that we could work on, we could file an intelligent brief which would be very helpful.

Chairman Matthews: The renewed motion will be denied.

Mr. Kitchen: Then I move the Board to compel the applicant to allow us to inspect the original records and allow us twenty days within which to make such inspection.

Mr. Oven: Same objection and same offer as before.

Chairman Matthews: That will be denied also.

Who will you have for your next witness?

(Witness excused.)

[fol. 1461] C. H. Sauls was sworn and testified as follows:

Direct examination.

By Mr. Oven:

Q. Where do you live, Mr. Sauls?

A. Savannah, Georgia.

Q. What position do you hold with the Seaboard Air Line?

A. Division superintendent of the territory known as the South Carolina division.

Q. Does the cover and include the operation as between Jacksonville and Fernandina?

A. Yes, and Baldwin——.

Q. Will you tell us what train schedules are now in effect and truck schedules, as to the intrastate movement operated by the Seaboard Air Line as between Jacksonville and Fernandina?

A. We operate one train leaving Baldwin—so far as a schedule is concerned, known as 158, at six a.m., scheduled

to arrive Fernandina at eight-fifteen; No. 157 scheduled to leave Fernandina at eight-forty-five, to arrive at Baldwin at eleven-forty-five; the truck schedule is to leave Jacksonville at sixty-thirty a.m. and arrives at Fernandina at eight a.m.; to leave Fernandina at four p.m., and arrive Jacksonville at five-thirty p.m.

Q. Have you examined the data prepared by Mr. Simms, offered as applicant's exhibit No. 2, sheets 1, 2, 3, 4 and 5?

A. I have read them, yes.

[fol. 1462] Q. If you have, state in what way will the granting of a certificate to handle interstate commerce on that operation, now being operated between Jacksonville and Fernandina, have upon the public and the railway system?

A. It will enable us to operate less solid cars into Fernandina, it will save money for the railroad and it will enable us to deliver the LCL freight arriving at Fernandina, both intrastate and interstate at the same time, and advance the movement of the interstate inbound delivery, I would say approximately four to five hours.

Q. Now, with reference to the outbound?

A. On the outbound freight it will expedite the movement of the interstate freight twenty-four or more hours for delivery into the station in time to leave on the truck.

Q. Now, will you explain to us, the handling of this freight by truck now moving in interstate commerce and handled by train, how it will be stepped up?

A. It will be worked in the Jacksonville agen-y today, for example, go out on the truck for early delivery in Fernandina, the next morning, or shortly after eight when the agency opens, as against the present operation of moving by car from Jacksonville via Baldwin to Fernandina, arriving Fernandina anywhere from nine-thirty to twelve noon, making an afternoon delivery.

Q. Now that would be a convenience to the public—now, what would be the saving to the company, if any?

[fol. 1463] A. We would make less cars— I figured from the period of November 20 to June 15 we would have saved the making and moving of 167 cars from Jacksonville to Fernandina.

Examiner Yardley: Just to be clear, I am not quite certain about one point, do I understand in the event this certificate is granted that when you have full carloads of

LCL freight that they will be handled by train or by truck?

The Witness: By train if it is more than the truck can handle.

Examiner Yardley: That doesn't answer my question—if you have an entire carload of LCL freight from Jacksonville to Fernandina and you have your usual intrastate truck movement, will that carload be handled by train or truck?

The Witness: By train.

Examiner Yardley: I thought that was what you meant, I just wanted to be positive.

By Mr. Oven:

Q. Now, back to my question, in dollars and cents, how much would that saving be?

A. Approximately $4.63 per car and for the 167 cars it would figure $773.21.

Q. Is the movement of LCL freight into and out of Fernandina light or heavy?

A. Comparatively speaking it is light.

Q. Now, with reference to freight movements interstate from Fernandina to Jacksonville, how long does it take that to move?

[fol. 1464] A. Leaving Fernandina on 157, cars are taken into Baldwin where they are then handled from Baldwin to Jacksonville, placed at the warehouse for working the following day; under the proposed operation the same freight would move from Fernandina to Jacksonville in the afternoon in time for loading in the regular setup of outbound merchandise, LCL cars, from the Jacksonville warehouse the same night.

Q. Now, Mr. Sauls, in this operation, for the benefit of the record, to clear up some questions that have been propounded to Mr. Simms, describe minutely the movement of that train from Fernandina until that carload gets to Jacksonville?

A. We have a separate seniority district, the line from Baldwin to Fernandina being one of our oldest lines, it is necessary for us to operate the service between Baldwin and Fernandina instead of Jacksonville by Yulee to Fernandina, this situation is covered by labor agreement which we cannot abrogate, a carload from Fernandina on 157 would therefore move into Baldwin in the afternoon, be

switched into a Jacksonville classification and moved in during the night by a crew on what is known as the North Florida division, operating from Wildwood or some other terminal into Jacksonville. After the arrival in the Jacksonville yard it is then necessary, under the law, that a very careful inspection be made by car inspectors and after that is done the switch engine is then used to switch the car to the various terminal destinations, including the setup for [fol. 1465] the warehouse, and is placed at the warehouse sometime during the night for working the following morning when the agency opens.

Q. How far is it from the yard to the warehouse in Jacksonville?

A. That is not in my jurisdiction, but I would say approximately two miles from West Jacksonville yard to the freight house.

Q. Now after that freight goes to the warehouse, when does it move out?

A. The following night with the regular out of merchandise cars.

Q. Then, if that same freight moved by truck it would leave out the same night it left Fernandina?

A. Yes, if delivered in Fernandina in time to make the schedule of the truck.

Q. Now, I understand you have filed, very recently, with the Interstate Commerce Commission, and also with the Florida Railroad Commission, no action being taken on either one yet, an amended schedule whereby you propose to leave Fernandina at three p. m., arriving Yulee at three-thirty, leaving Yulee at three-thirty-five, arriving at Jacksonville at four-thirty; leaving Jacksonville at five, arriving Yulee five-forty-five, leaving Yulee five-fifty, arriving Fernandina six-thirty; that is by truck; will you tell me what [fol. 1466] advantage that schedule will give over the present schedule now in operation?

A. The idea in making that change was not from a freight standpoint, but that of a labor standpoint, in order to avoid the driver on this particular truck having longer hours with a definite layover in Fernandina—in other words, simply to shorten the hours of the day at the driver's terminal.

Q. Have you anything else you would like to state in the record, Mr. Sauls, as to the convenience and necessity of this operation?

A. I think that was explained by Mr. Simms, the outbound movement would be very materially expedited by anywhere from twenty-four to forty-eight hours and sometimes seventy-two hours in its movement as compared with the present train operation.

Q. The train that goes in there now has both carload and LCL business?

A. Yes.

Q. Which predominates?

A. Carload.

Q. Can you give us any idea of the proportion of carload business handled in there?

A. That would be simply a guess, without checking the record, but the tonnage into Fernandina would run anywhere from 500 to 3,500 pounds, practically all of which is carload business, per train average.

[fol. 1467] Q. Do you think the LCL business now moving in there by train because of the fact that it is moved interstate and you can't move it by truck, would ever amount, except possibly in one or two exceptional cases, to more than a good load for the truck making one trip a day?

A. Yes, I think in certain days of the week it would; this train operating from Baldwin to Fernandina also serves Bryceville, Callahan and Italia, which makes it necessary on certain days a week to run a car anyway and that car is filled out, of course, if the tonnage is available with Fernandina freight, it is carried on through to Fernandina.

Q. And the working of these other small places delays the arrival in Fernandina?

A. Various things, they will delay the arrival, the connections coming into Baldwin may set the train back as the predominating tonnage at the present time is pulpwood coming in from the Florida territory.

Q. None of that would ever move in a truck?

A. No.

Mr. Steadman: We object to that.

Chairman Matthews: Objection overruled.

Gentlemen, it is now five o'clock, we will adjourn until nine tomorrow morning.

(Whereupon, at 5 o'clock p. m., the hearing was adjourned until 9 o'clock a. m., June 23, 1938.)

[fol. 1468] Before the Interstate Commerce Commission

Docket No. MC-86687 (Sub-No. 18)

In the Matter of the Application of *the Application of* Seaboard Air Line Railway Co. (Legh R. Powell, Jr., and Henry W. Anderson, Receivers), a Corporation, of Seaboard Air Line Railway Building, Norfolk, Virginia, for a Certificate of Public Convenience and Necessity, Form BMC 8, Authorizing Extension of Operations as a Common Carrier by Motor Vehicle in the Transportation of Commodities Generally, in Interstate Commerce, in the State of Florida, between Jacksonville and Fernandina, Florida, via Yulee, Florida

Hotel Mayflower, Jacksonville, Florida,
June 23, 1938, 9 o'clock a. m.

Before Joint Board No. 205

Present: Hon. Eugene S. Matthews, Chairman, Florida Railroad Commission; Richard Yardley, Examiner, Interstate Commerce Commission.

Met pursuant to adjournment.

APPEARANCES:

As heretofore noted.

[fol. 1469] PROCEEDINGS

Chairman Matthews: All right, gentlemen, are you ready to proceed?

C. H. SAULS having been previously sworn, resumed the stand and testified further as follows:

Direct examination.

By Mr. Oven:

Q. Mr. Sauls, with reference to the LCL freight that is now handled into Fernandina by train and which is moving in interstate commerce, state whether or not that is delivered to the Seaboard Air Line at other agencies or by its connecting carriers for delivery into Fernandina?

A. It is delivered to us by other agencies on the Seaboard Air Line and will come to us through the various inter-

change connection and other railroads over the entire system.

Q. Then, as a matter of fact, regardless of whether or not the Seaboard Air Line was permitted to move that by truck from Jacksonville to Fernandina, it would still be the Seaboard Air Line's freight and delivered into Fernandina at some time or other by Seaboard Air Line?

A. Yes.

Q. Would the reverse be true as to outbound shipments?

A. Yes.

Q. Now assuming for the sake of argument, that a ship-
[fol. 1470] ment of groceries or dry goods was made from Valdosta, Georgia, by the K. & L. Transportation Company, consigned to Fernandina, would that in any way be turned over to the Seaboard Air Line for delivery into Fernandina, or would it move in there by truck?

A. By truck.

Q. In short, the truck lines interchange with each other and the railroads interchange with each other?

A. Yes.

Q. Can you state, for the benefit of the record, how many truck lines operate into Fernandina outside of what the Seaboard Air Line is operating?

A. I don't know, I am not familiar with that operation.

Cross-examination.

By Mr. Bliss:

Q. Mr. Sauls, you mentioned the figure of 167 cars?

A. That is correct.

Q. For what period was that?

A. For the period of November 20 to June 15.

Q. How do you arrive at that figure?

A. From checking the records as to what we did handle and what we could have handled on the truck, that, of course, is a figure that we estimate to be correct and believe it to be approximately correct.

Q. Was your check made independent of the check of Mr. Simms?

[fol. 1471] A. Yes, that was checked from the 44 reports in the office.

Q. What is the 44 reports?

A. Railroad report tonnage handled in merchandise cars.

Q. And you believe that you could have eliminated the use of 167 cars?

A. Yes.

Q. I presume those would have been cars which carried no shipments for Bryceville, Callahan, and Italia, or intermediate points?

A. Yes.

Q. Did you check the truck trips on the same day that those cars moved?

A. Yes.

Q. Did you find that the trucks could have handled the tonnage?

A. That was our figures, yes.

Q. Did you find that you would have had to get more than 175 truck trips?

A. No, we didn't figure on making any trips except the one trip with truck service.

Q. Do you have your computations for the month of January, 1938?

A. I have the total number of cars that were operated, I didn't bring the work sheets.

Q. Could you furnish copies of those work sheets for that [fol. 1472] month, it being the same month?

Mr. Oven: We agreed to file a statement for January yesterday.

Mr. Bliss: This is an independent survey by another official which, while it is not presented in as much detail originally, still appears to us to be based on sounder statistical methods than the first exhibit, and I am possibly doing you a favor in requesting this information—I think it should be requested, however.

Mr. Oven: We have prepared a statement showing the LCL freight handled in intrastate commerce by days for the month of January by truck and we also prepared a similar statement showing the interstate shipments handled by train for that month and that was the month selected.

Mr. Bliss: I see no reason why you should have any objection to Mr. Sauls copying his work sheets.

Mr. Oven: We are simply doing the same thing over, it all comes from the same records.

Examiner Yardley: Would you mind showing that statement to Mr. Bliss?

Mr. Oven: I was going to hand it in when he finished cross examining.

Mr. Bliss: Our purpose for asking for any of this information is, of course, to check the implication as to little, if any, additional cost. I think we have been rather reasonable [fol. 1473] in trying to suggest——

Chairman Matthews: Mr. Bliss, don't you think that is rather incidental in this case any way as to the saving——

Mr. Bliss: Of course, we don't know what finding will be made with respect to that feature, we are anxious to prevent, if the facts will warrant, the finding that there will be any additional cost because we don't believe that to be the state of affairs.

Examiner Yardley: We all realize there will be some additional cost, at least, when you say no additional, of course, that is—for instance, here on the 15th day of January they had a load of 17,408 pounds of freight to Fernandina—now they couldn't have gotten a great deal more on that truck, that is almost a load, if not a load, so we know it will be necessary, if they had any shipments whatever in interstate commerce, it would be necessary to run another truck and go back for another load.

Mr. Steadman: Suppose he did have 17,408 pounds on that day, if that was tenth or twelfth class freight, the cost would be the same, the revenue derived would not offset the cost of handling it.

Examiner Yardley: It will average up the same as with your line, the Seaboard Air Line.

Mr. Steadman: We haven't found it to average up and for that reason we found it necessary to restrict our tariff [fol. 1474] so we won't haul any higher than seventh class. If the thing would average up we would want to protect all classes of freight. We find it very material in the cost of operation to haul low class freight.

Examiner Yardley: I don't want to get into any arguments with you on that, Mr. Steadman. You might have some personal views on the matter.

Mr. Bliss: I would like to state that——

Examiner Yardley: Just a minute, Mr. Bliss.

Chairman Matthews: I think the applicant will not be required to submit any further breakdown of this movement.

By Mr. Bliss:

Q. What do you estimate is the cost per mile of operating trucks?

A. You mean trucks or this particular truck?

Q. This particular truck, the actual cost of operating?

A. This truck, without any overhead figures?

Examiner Yardley: It won't be of much value then.

The Witness: I mean the actual expenses.

Examiner Yardley: All right.

The Witness: The actual expense of operating that particular truck for a period of five months, January through May, as taken from the Auditor's figures, totaled $1,463.64, or an average cost per mile of 16.82 cents.

Q. That is 16.82 cents per mile?

A. Yes.

[fol. 1475] Q. Do you happen to recall how often you have a shipment for these intermediate points?

A. Well, it depends largely on when you move them, practically speaking there is nothing for those points.

Q. Is it your proposal to delay shipments to those points?

A. No.

Q. In other words, if you have a 100 pound shipment for Italia, would you run a car around by Baldwin even though all of your Fernandina freight was moving by train?

A. We would move the freight.

Q. What provision do you make for shipments being forwarded from Bryceville, Italia, and Callahan?

A. We move them by train.

Q. How are you going to know that—suppose the shipper at Italia has a case of honey to ship into New York?

A. If there is any honey in there, I haven't seen it.

Q. Well, take anything?

A. I don't get what you are driving at.

Q. How will you know so as to have a car on that train returning from Fernandina to Italia that he can load that shipment into?

A. Just the same as any other local station or flag station on the railroad.

Examiner Yardley: Do I understand that this application does not cover intermediate points?

The Witness: It does not.

[fol. 1476] Examiner Yardley: The only points touched by the highway and rail line?

The Witness: This territory he is questioning me about is between Yulee and Baldwin.

Mr. Bliss: My question is directed to cost; I am trying to see how he can avoid having an LCL car on trains 157 and 158 every day any way, or else damage the service being given to these intermediate point.

The Witness: On train 157, moving from Fernandina to Baldwin, there are always more loads going into Fernandina than there is loads moving out, consequently the train always has empty cars moving back that can be utilized for any purpose necessary.

Q. Those may be cars that can be used for loading package freight?

A. Absolutely.

Q. And not pulp cars?

A. We never load package freight in anything except in closed cars.

Q. If the Motor Carrier, now operating into Fernandina, with whom K. & L. would interchange, in one of Mr. Oven's questions, were to have to stop operations, would you then interchange with K. & L. and other Motor Carriers?

A. I would say not, however, I am not competent to answer that question. It is really for the executives to answer?

[fol. 1477] Q. Do you anticipate an increase in tonnage as a result of this alleged improvement in service?

A. I haven't considered it, we are now getting the business and trying to expedite it.

Q. You testified on direct examination as to where this traffic might be received at other agencies of the Seaboard Air Line, might any of it be received on the other motor lines of the Seaboard Air Line?

A. No, sir, not unless taken to the station and rebilled as a local shipment.

Q. Might some of it be received from the other motor lines of the Seaboard Air Line?

A. Not to be handled by the Seaboard Air Line.

Examiner Yardley: In the event the other certificates are granted, if you don't mean that, I don't know what you mean.

Mr. Bliss: Including the other certificates applied for and the certificates applied for under the Grandfather application, in the event they are granted.

The Witness: It is possible that if it was delivered to any point in Florida at our station, where similar truck lines operate, it might move into Jacksonville on that truck and through to Fernandina on ours.

Q. You spoke of the present train schedules from Jacksonville or Baldwin to Fernandina as being very seldom run [fol. 1478] on time?

A. That is true.

Q. You seemed to assume that the motor trucks would always make their schedule?

A. My experience is they do, as a rule.

Q. Is it your experience that in general Motor Carrier transportation, they are more reliable as to making schedules?

A. I am not familiar with the Motor Carriers and their performance or what they do, I am only familiar with our operations and it is a general fact that any freight train operating on a branch line doing local work will not run on a paper schedule, such schedules are made for train dispatching and other operating purposes.

Q. But you do feel your Motor Trucks can run on paper schedules?

A. They do, as a rule.

Q. Isn't it possible, in your terminal operation, to favor one schedule as against another by making swifter transfers?

A. That is done in the case of perishable freight.

Q. Can it not be done as between any two schedules?

A. I don't get your question there as to what you mean.

Q. Isn't it possible to favor one schedule as against another by giving one better terminal service?

A. That is done, as I stated above, but it has to be [fol. 1479] governed by the class of freight.

Q. At what intermediate points between Jacksonville and Fernandina, via Baldwin, do you have occasion to switch cars at nights in the industries?

A. We have no night service, we only have one round trip a day and it is daylight service.

Q. If that daylight service were turned into night service, and I believe a previous witness testified that it would be

convenient, I would like to know at what intermediate point you have that problem of switching to industry?

A. In the first place it would not be convenient to turn the service into a night service on account of the connections in the freight moving, that this train carries into Fernandina, and if it was made a night train it would switch identically the point that it switches in the day time, any point that is necessary.

Q. Then, do I understand that you do not propose to change the schedules of trains 157 and 158?

A. In no respect whatever.

By Mr. Kitchen:

Q. Yesterday, didn't you state that due to certain agreements with the Brotherhood that it was necessary, by virtue of seniority, for this freight to be shipped by way of Baldwin preferably than direct from Jacksonville to Yulee and Fernandina?

A. I made that statement—I also stated that due to the [fol. 1480] connections and nature of the business out of Fernandina it was also necessary to rush this train out of Baldwin.

Q. Would it be necessary for your trucks to go by way of Baldwin?

A. No.

Q. Will you tell me why it is necessary for a train and not necessary for a truck to take that circuitous route?

A. The truck would go the direct route because there are no stations to work; on the other line the road does not parallel the railroad. The reason for the trains to be operated out of Baldwin is due to the fact that the majority of the tonnage handled on these trains is phosphate rock, originating in Florida points, pulp wood, and other freight that also originates at Florida points, Baldwin being the terminal.

Q. Just to further clarify my understanding, as to the proposed establishing of truck service, is it for the purpose of transporting less than carload lots from Jacksonville to Fernandina, in interstate shipments, we will say, and direct route?

A. It is for the purpose of expediting the freight that originates over the entire country destined to Fernandina.

Q. The freight would be transported by truck, that

would naturally lessen the interstate freight as transported by rail, would it not?

A. To that extent, yes, from Jacksonville to Fernandina.

[fol. 1481] Q. Did you hear the testimony of Mr. Simms, your agent?

A. I think I heard practically all of it.

Q. His statement, if I am correct, I think it was to the effect that the average car contained a volume of gross weight of 25,000 pounds, would you concur in such a statement?

A. I didn't hear him make the statement that it would do that, I think his statement was that usually they ran around 5 tons, and some times less than that, depending upon what the shipment is; in many cases that we have, a large piece of machinery coming from the factory, for instance, destined to Fernandina, arriving in Jacksonville in a loaded merchandise car, that it is properly braced and hard to move, that particular piece will be permitted to go on without transfer.

Q. Freight of a different nature would be taken by truck?

A. It would if the one truck would handle it, otherwise by freight.

Q. If the freight was offered and the public demand was made, would you not increase the trucks operated?

A. We do not anticipate—I would say unqualifiedly, no, under present conditions.

Q. Would not the placing of trucks in service between Jacksonville and Fernandina for handling of less than carload freight, interstate shipments, have a tendency or leeway, in which your Company would withdraw from the agreement made by the union without abrogating such agreement?

A. No, sir, it would have absolutely nothing whatever to [fol. 1482] do with the contract relationship between the railroad and organizations.

Q. By the way, does the American Railway Express Agency have an office and does it operate into Fernandina?

A. It has an office there, it operates over the Seaboard Air Line, that is the Railway Express Agency; there is no American Railway Express.

Q. How does that operate—an interstate shipment com-

ing into Jacksonville, how would it be taken into Fernandina?

A. By train and bus.

Q. By train and bus?

A. Yes, sir.

Q. What bus?

A. Seaboard bus.

Q. When did you start transporting express by Seaboard bus?

A. I don't remember the date, I can get it for you and mail it to you if it is material.

Q. It is very material, and I insist on having it—will you, Mr. Chairman, please require the applicant to conform with the request within a stated number of days?

Mr. Oven: That is already in the record.

Chairman Matthews: There was some testimony here yesterday regarding that, Mr. Kitchen, the testimony showed that the Seaboard Air Line originally contracted with McJunkin for the handling of that express to Yulee, [fol. 1483] I believe it was, and then later that contract having terminated, they put on service for themselves, and I think the dates were given in that.

The Witness: I would have to check the records to find that, I think it was two or three years ago.

Mr. Kitchen: Mr. Chairman, under order 795, Docket 216, by the authority of the Railroad Commission it does not authorize any such operations from Jacksonville to Fernandina for the transportation of interstate shipments of any kind nor for intrastate shipments, it wouldn't as far that matter, the order of the Commission——

Examiner Yardley: What is the date?

Mr. Kitchen: The 16th day of October, 1935.

Examiner Yardley: For your purposes this service started subsequent to that time.

The Witness: It started by contract between Yulee and Fernandina in 1931, that is before I came to this territory, then we cancelled the contract with McJunkin and started to handling it ourselves, and it has no connection between Jacksonville and Fernandina except by train to Yulee.

Examiner Yardley: But I meant didn't you start handling this express by bus subsequent to the date of this order?

The Witness: Yes.

Examiner Yardley: Isn't that satisfactory?

Mr. Steadman: Yes.

Mr. Oven: Between Fernandina and Yulee, not Jacksonville.

[fol. 1484] Mr. Steadman: Yes.

Mr. Kitchen: And it was started by virtue of the contract with McJunkin?

Examiner Yardley: It is in the record now.

Mr. Kitchen: Still, Mr. Examiner, I want to find the legality of the operation that is heretofore stated by the witness.

Examiner Yardley: We have no evidence whatsoever as to express thus far.

Mr. Kitchen: I think that an issue as to the legality and the——

Examiner Yardley: There is no claim as to the Grandfather right.

Mr. Kitchen: Certainly it is applicable to the fitness of the applicant.

Examiner Yardley: Would it satisfy you if I made a notation of this matter and referred it to the Interstate Commerce Commission?

Mr. Kitchen: Yes.

By Mr. Steadman:

Q. In giving this train schedule, I understood you to say it left at 6 a. m. and arrived in Fernandina at 8:15 a. m.?

A. No, sir, I said it was scheduled to leave at 6 p. m. and to arrive at Fernandina at 8:15 a. m.

Q. Well, assuming that under ordinary conditions that [fol. 1485] would be the way it would move?

A. No, sir, I wouldn't assume that because it is not correct, the schedule is made for——

Q. If a shipment leaves Jacksonville by train, LCL shipment, what time would it get into Fernandina?

A. Any where from 9 in the morning until 12 noon.

Q. That would be a shipment that would be picked up the previous day in Jacksonville?

A. That is right.

Q. Then I gather from that that in so far as the movements from Jacksonville are concerned that you can give as good service by train as you can by truck?

A. No, sir, a truck movement would be delivered in the early morning, whereas the movement by train would be delivered at noon or afternoon.

Q. A matter of a couple of hour-?

A. 8:30 to 12:30 at noon, maybe more than that.

Q. Of course, if you have some trouble with your truck, it is subject to delay too?

A. So far we haven't had that.

Q. As I see then the principal interest that you have is to expedite your shipments from Fernandina to Jacksonville so that they will catch the train out of Jacksonville going to the different territories?

A. That and the inbound shipments for early delivery, of [fol. 1486] course when the truck handles intrastate shipments that freight is delivered then when the train gets in; you have got to cover the same territory.

Q. The point I was trying to get in, so far as your schedules are concerned, your principal concern now is to get your freight originating at Fernadina, going in interstate commerce or intrastate commerce, over to Jacksonville in time to catch the schedules out of Jacksonville?

A. The intrastate makes the schedule, we are interested both ways.

Q. As I understand now, you have permission and authority to operate in interstate commerce *commission* between Fernandina and Yulee?

A. That is true, but I think that authority covers express and mail service—I am not sure about it, that is all we handle.

Q. What is the difference between express and LCL freight?

A. I couldn't answer that, that is a question for the Commission to answer. They issue the authorities.

Q. Is there any reason, Mr. Sauls, that you know of, why you couldn't move freight originating at Fernandina to Yulee and put it on one of your southbound trains into Jacksonville?

A. I don't have that kind of service.

Q. You don't have any trains coming in there, from the North, from Savannah, for example, that hauls this LCL freight?

[fol. 1487] A. Not at night, no, and if we did the situation would be the same because the train leaves Fernandina at the same time regardless.

Q. I wasn't speaking about train service at Fernandina, I asked the question about your truck movement from Fernandina to Yulee?

A. No, we don't have any local service at night.

Q. Didn't I understand you—you heard Mr. Simms' testimony, didn't I understand him to say he had a truck operating between Yulee and Fernandina?

A. Yes.

Q. That is what I thought—then there is no reason why that they couldn't handle those LCL shipments?

A. There wouldn't be any use to handle it from Fernandina to Yulee and let it lay over there, you would be handling your shipments twice as against one time direct.

Q. Are you familiar with the articles of the contract between the Railway Express and the Seaboard Air Line?

A. No, I haven't those figures with me.

Q. I wasn't interested in the compensation, but the arrangements under which you handled it; in other words, is there any reason why you couldn't, because of the small amount of tonnage as evidenced by your figures, that you supply in Exhibit 2, as to why you couldn't haul that by truck and put it on one of the southbound passenger trains?

[fol. 1488] A. We cannot handle freight in passenger service. When we do it becomes a freight train under our arrangement.

Q. Do you have immediate knowledge as to your schedule southbound from Jacksonville?

A. No, I don't have the schedules south of Jacksonville because I don't have that territory and have nothing to do with it.

Q. Then you have no knowledge of that schedule, you wouldn't know whether the freight originating at Fernandina brought over here by truck would be expedited——

A. I know when the merchandise cars go out—you spoke of all trains.

Q. We are dealing with freight and I don't see what the schedule of the trains has to do with it?

A. We were dealing with passenger trains a moment before that, through Yulee.

Q. I would like to know, the merchandise cars that originate at Jacksonville move South, North and West, are you faimil-ar with those schedules?

A. Yes, the southbound cars leave Jacksonville at night and go to Miami, Tampa, St. Petersburg, and other places over night.

Q. You don't have any knowledge about the time they leave?

A. The southbound train leaves, as I recall, at 8:15 or 9 at night.

Q. And the Seaboard Air Line West?

[fol. 1489] A. That is all southbound schedule, we have no westbound trains, that train makes connection at Baldwin for the West.

Q. Then any freight that might originate in Fernandina going to New Orleans or Pensacola, Mobile, would have to lay over here until the next morning any way?

A. No, it would go out that night if it came in early enough to load.

Q. On what train?

A. At 8:15 or 9 o'clock.

Q. Going where?

A. All points South connecting at Baldwin for Tallahassee.

Q. And that train going to Tallahassee originates where?

A. I think that crew starts in Baldwin, it may originate here, this is the large terminal and the breaking point for Florida and Western Territory.

Q. Then that would have to be transferred again at Baldwin?

A. No, switched from one train to another, to be classified out of Jacksonville for the West.

Q. How about your northbound schedule?

A. There are only perishable trains leaving here at noon.

Q. Then your service from Fernandina by truck would be of no particular value?

A. It would save, under the present operations, 24 hours delay.

Q. How do you account for a 24 hour delay?

[fol. 1490] A. If your freight was delivered into Fernandina after the train leaves that train does not get in here in time for the connection.

Q. On the perishable schedule, you move all types of freight?

A. High class freight or merchandise.

Q. Do you happen to have made a survey of the quantity of high class freight that you speak of that originates in Fernandina?

A. No, I was talking about what the train moves.

Q. Which train?

A. The one that we designated as a perishable train.

Q. What quantity of this high class freight originates in Fernandina?

A. Any LCL freight is considered high class freight.

Q. Regardless of its revenue?

A. It would have to be because all classes are loaded in the same car.

Q. Your train leaving for the North is at 12 noon?

A. Yes.

Q. And the shipments that may come in by truck would get in here, as I understand it, at 5:30?

A. Yes.

Q. That means that would be an 18 hour lay-over here?

A. Yes.

Q. Your train—your schedule to Baldwin, what time [fol. 1491] would it get into Jacksonville?

A. Around 3 in the morning.

Q. If it got in here at 3 in the morning, what would be the particular advantage in having it on the truck?

A. There would be none, if the business was delivered in Fernandina in time to move on the truck.

Q. Then it is a matter of schedule to Fernandina—in other words, the population of Fernandina——

A. No.

Q. Your train is scheduled to leave there at 8:45?

A. Yes.

Q. They know that that train leaves there at 8:45?

A. Yes.

Q. And if they have any shipments, they are going to get them down there?

A. It is according to when they make up their minds.

Q. You have found by your survey that there is a large amount of orders going into Fernandina?

A. I didn't say I made a survey.

Q. Well, leaving the survey out, would you find that there are a large number of orders going into there?

Examiner Yardley: That is shown by the statement of tonnage moving in and out.

Mr. Steadman: Mr. Examiner, he is attempting to put into the record the fact that it is necessary that this truck [fol. 1492] schedule be put between Fernandina and Jacksonville in order to expedite freight, and the schedules he has furnished don't substantiate that.

Examiner Yardley: It is all in the record, you can argue that then.

Judge Oven, I notice your application covers express, I assume you will give us some evidence on that matter.

Mr. Oven: I can't furnish any figures because I haven't been able to handle it, the comparison will not jibe for this reason. The Railway Express moves by passenger train, now to Yulee, thence by this bus from Yulee to Fernandina, now so far as Interstate business goes it has all been handled that way, and the intrastate business may have been handled on the truck to some extent, but ordinarily the express would go to Yulee; now with our present truck service, by passenger train, this gives us two schedules a day as compared with one a day by truck. We might possibly want the authority to handle a little on this truck but in the main the freight proposition is the main one.

Examiner Yardley: I take it then that the record thus far shows no reason for granting a certificate for the handling of express.

Mr. Oven: I will admit it shows no necessity for it up to this time.

Mr. Bliss: I am willing to eliminate that if we can. I [fol. 1493] can't show any difference from protestant's point of view.

Mr. Oven: Mr. Sauls may be able to better explain that.

Examiner Yardley: All I wanted was to bring that to your attention.

By Mr. Steadman:

Q. You have truckage from Jacksonville to Fernandina direct?

A. Yes, we have truckage from Jacksonville to Savannah that connects with the Fernandina branch line.

Q. There was a time when you operated trains 21 and 22 over there, I don't recall the numbers, but you did operate them?

A. Not since I have been in this territory.

Q. If I told you you did, you couldn't deny it?

A. No, sir, and not necessarily except the figures either, I am not familiar with them.

Q. Is there any reason why you couldn't operate a train between Jacksonville and Fernandina now?

A. No, because complications with the organization.

Q. What organization?

A. The engineers and firemen specifically.

Q. What do you mean by complifications?

A. I mean under the contract and agreement of seniority with the engineers of the north Florida division, they have seniority and the South Carolina division engineers and firemen have no rights on that line; neither does the north Florida engineers have rights between Jacksonville and Yulee.

Q. Of course, not having before me contracts, I will have [fol. 1494] to ask the question that I asked before, that is, is there any arrangement that can be made in the event that it would prove a convenience to the Seaboard Air Line to supplement the agreement with the Brotherhood to affect the schedule between Fernandina and Jacksonville?

A. If any arrangements were made it would have to be done through negotiations with the two train service organizations but the natural operation would not make such a schedule practical.

Q. But if it was a practical operation, do you have reasons to believe that such negotiations could be made?

A. I have no reason to think any negotiations would be made under the present labor situation.

Redirect examination.

By Mr. Oven:

Q. You stated, on cross-examination, I believe, that the bulk of the business handled by these trains from Baldwin to Fernandina, they are phosphate rock and pulp wood?

A. Yes.

Q. From what section does the phosphate come?

A. I think all of it comes from around South Florida.

Q. The pulp wood comes from all this territory too?

A. From the territory between Baldwin and Tallahassee and down on the branch lines in South Florida.

Q. Now, the Seaboard Air Line is so constructed that its lines from South Florida run into Baldwin, and thence [fol. 1495] into Jacksonville?

A. Yes.

Q. And the old line on which it comes into Baldwin comes straight across over to Fernandina?

A. Yes.

Q. Then, if the train was operated from Jacksonville directly North to Fernandina, it would mean the handling of all of that heavy stuff, such as phosphate and pulp wood, from Baldwin into Jacksonville yards, then out North on the main line toward Savannah into Fernandina?

A. Yes.

Q. Would that be practical from a railroad operating standpoint?

A. It could be done; it would be a very un-economical operation.

Q. As a matter of fact, Baldwin lies approximately west of Jacksonville?

A. Generally speaking, yes.

Q. And Fernandina lies approximately North?

A. Yes.

Q. Then, there is a line of rail of the Seaboard Air Line from Baldwin direct to Fernandina by Yulee?

A. Yes.

Q. And a line of rail from Baldwin to Jacksonville?

A. Yes.

[fol. 1496] Q. And from Jacksonville up to Yulee?

A. Yes.

Q. Where it crosses the old Baldwin-Fernandina line?

A. Yes.

Q. Can you tell the distance from Jacksonville to Baldwin?

A. Approximately 18 miles, I haven't got the exact figures, but it is 15 or 18 miles.

Q. Well, what is the distance from Baldwin to Fernandina?

A. The distance from Baldwin to Fernandina is 47.3 miles.

Q. From Jacksonville to Yulee, on the main line?

A. From Jacksonville to Yulee is 23½ miles.

Q. From Yulee to Fernandina, now again on the Baldwin-Fernandina line?

A. 12.1 miles.

Q. Now there are certain intermediate points served by this Baldwin-Fernandina line that will not be served by a truck line?

A. Yes.

Q. They are what?

A. Bryceville, Callahan, and Italia.

Q. They are not on the highway?

A. No, sir.

Q. Now, with reference to this train operation, there is no intention on your part, or the management's part, to discontinue the freight train to Fernandina?

[fol. 1497] A. No, that is the only train we operate that serves points between Baldwin and Fernandina.

Q. You say on one day you had 17,400 odd pounds moving to Fernandina and that would have been practically a full truckload, and had you had a large interstate shipment of twelfth class commodity, you would have had to put on another truck to—could not that have been moved by train?

A. It would have been.

Q. With reference to Exhibit that has been furnished showing business intrastate, business handled by truck during the month of January; state whether or not that was an abnormal month or was it? If it was, state why?

A. Because of the fact that the new paper mill, the Ranier Corporation was building their plant at that point and getting in a lot of machinery, etc. for their plant.

Q. Now the business of the Railway Express Company moves by passenger train, doesn't it, where one is operated?

A. Yes.

Q. And it doesn't move by freight?

A. No.

Q. Now, an illustration was made here with reference to a shipment being delivered to the truck line of the Seaboard Air Line brought into Jacksonville and then possibly being delivered to the truck line of the Seaboard Air Line between [fol. 1498] Jacksonville Fernandina, if that was delivered in Florida and brought into Jacksonville, that would be an intrastate shipment?

A. Yes.

Q. Assuming, for the sake of argument——

Mr. Kitchen: I object to the line of questioning, it calls for a conclusion on the part of the witness.

Q. Assuming that the shipment was delivered to the truck line of the Seaboard Air Line in another State and hauled to Jacksonville and then delivered to this Fernandina-Jacksonville truck line, the shipment would be delivered at the station of the Seaboard Air Line of that other State?

A. Yes.

Q. And it would be railway freight just the same?
A. Yes.

Recross-examination.

By Mr. Steadman:

Q. Didn't you mention the figure of 16.82 as a truck mile cost, less the overhead?
A. On this particular truck?
Q. Operating between Jacksonville and Fernandina?
A. Yes.
Q. Did you happen to have available your actual truck mile cost?
A. On this truck I do; it is 16.82.
Q. I mean including the overhead?
A. No, I haven't figured anything of that kind on it.
Q. In arriving at this 16.82, would it be too much trouble [fol. 1499] to you to outline the figures that you used in arriving at that figure?
A. I would be glad to give that to you—gasoline $266.22, lubricants $25.25, tires $35.00, repairs $149.87, truck driver $551.00, other labor $23.46.
Q. You have a helper on the truck?
A. Yes. License prorata $111.50, insurance $88.00, taxes $88.34.
Q. What do you mean by taxes?
A. The prorata of the taxes on the truck. We pay the Commission, that is not the mileage tax. Depreciation $125.00, total $1,463.64, cost per month $292.73.
Q. You haven't figured your mileage tax in there?
A. No, that will run about $45 or $50 a month.
Q. About a cent a mile?
A. Yes.
Q. You haven't considered in that figure the cost, the prorata cost of the agent's time and his personnel at both places, Jacksonville, Fernandina and Yulee?
A. No, for the reason they would be handling this business if it was in cars and we would have the same forces there.
Q. In order to get an accurate cost of the truck mile you would have to consider that?
A. I wouldn't think so, I wouldn't reduce any force except the driver, except the helper, if it was taken off; in other

[fol. 1500] words, the records that is kept by the agents are identically the same on freight moved by truck or train.

Q. Then on the cost of the truck line, such as legal questions that might come up in this hearing, the cost of that wouldn't be prorated on the truck line's expense?

A. Not by me, no.

Q. Would you consider that as an element of cost?

A. No, personally I would not.

Q. You are only actually figuring cost of operating the truck line, less the labor and the accessorial services, such as counsel fees, etc., you are not considering that?

A. No, the actual cost that—the actual cost figured by me as superintendent, to operate the truck.

Examiner Yardley: Is that all?

Mr. Oven: Mr. Chairman, yesterday we were required to furnish a statement by days as to intrastate freight handled on a truck during the month of January, 1938. We have supplied opposing counsel with that document and would like to file with the Examiner the original of it, you have it there, and in addition to that I would like to ask liberty to file with this Board a certified copy of the opinion of the Supreme Court of Florida in the case entitled "Central Truck Lines vs. the Railroad Commission of Florida and Receivers of the Seaboard Air Line," which went there on certiorari to an order of the Railroad Commission of Florida that involved the granting, under a statute passed in [fol. 1501] 1937, of a certificate to operate in the State handling intrastate business; I wish to do this because of the fact that our Court has very clearly construed this act, they determined we have a right to the service, and in view of the recent decision of the Supreme Court of the United States in the case of Erie Railroad vs. Burlip, overruled, in which case Mr. Justice Brandeis lays down a rule as shall be observed in Federal Courts, so consequently I take it that the Interstate Commerce Commission will likewise following the ruling of the Court. I will have that furnished within the next few days.

Mr. Kitchen: Mr. Chairman, in conjunction with the statement of Counsel for the applicant, this Counsel representing certain protestants will state for the benefit of the record that the opinion referred to by said Counsel for protestants is being taken on an appeal on certiorari direct to the Supreme Court of the United States.

Mr. Oven: Admitted.

Examiner Yardley: The statement, etc., will be received as Exhibit 3.

(Exhibit No. 3, witness Sauls, received in evidence.)

J. A. Bliss, was sworn and testified as follows:

Direct examination.

By Mr. Kitchen:

Q. Will you state your name?

[fol. 1502] A. J. A. Bliss.

Q. What is your business?

A. Vice President, in charge of traffic, St. Johns River Line Company, Jacksonville, Florida.

Q. Is that a common carrier?

A. Yes.

Q. Does it also operate boats as well as trucks?

A. It is a common carrier by both water and motor vehicle, in both intrastate and interstate commerce.

Q. Where do you engage in interstate commerce by water?

A. From Jacksonville to Sanford and intermediate landings, that is interstate as well as intrastate; from Jacksonville to Daytona Beach, Florida, in both intrastate and interstate; from Jacksonville to Brunswick, which is interstate.

Q. Now on your route from Jacksonville to Brunswick, is Fernandina, Florida, an intermediate point?

A. It is intermediate.

Q. Between Jacksonville and Brunswick?

A. It is intermediate, geographically the channel is right by the main part of Fernandina, the Amalia River, but it is not a station on our line.

Q. It is not?

A. No.

Q. Could you serve Fernandina with that line?

A. From a physical point of view, yes.

[fol. 1503] Q. From what viewpoint can't you serve it?

A. We have several times, since August 31, when we instituted the Brunswick operation, surveyed to determine

whether or not Fernandina needed any additional transportation facilities.

Q. What did you find?

A. We have not felt that they needed any additional transportation facilities or could support more facilities than the one motor line and one rail line that now serve that town.

Q. Mr. Bliss, if your Company would have determined, or arrived, at a conclusion that Fernandina would support additional transportation facilities from that survey, would you have made Fernandina as a port of call by your boat?

A. We would have felt that the public would be better served by having a choice of three transportation services of different kinds, motor, water, and rail, than they would by having two railroads and one truck line or two truck lines and one railroad.

Q. Is it the policy of your Company to keep apace with the times and to constantly investigate into the possibilities of securing freight at Fernandina and other points?

A. That goes about the same, we try to keep in touch with what is going on.

Q. And you are still of the conclusion that Fernandina will afford no additional transportation facilities?

A. We pass Fernandina every night, three times a week in one direction, and three times in the other, and go practically up the main street and do not stop; we are not [fol. 1504] estopping ourselves from coming to a different conclusion, perhaps the testimony at this hearing will convince us that Fernandina needs additional service, but at the present time on the basis of periodic investigations, we have come to the conclusion that they require no additional transportation service.

Q. Mr. Bliss, do you know what transportation services are offered in Fernandina at the present time?

A. The Seaboard Air Line and McJunkin.

Q. Have you any other statement for the record that you care to make with reference to the adequancy of the now existing transportation facilities?

A. We have had a reasonable opportunity to observe the services of the Seaboard Air Line and the McJunkin Truck Line, and I believe that both are efficient carriers.

Q. Mr. Bliss, do you at the present time, interchange freight with the McJunkin Line for Fernandina?

A. Some.

Q. Now, Mr. Bliss, if the Interstate Commerce Commission should grant a certificate to the Seaboard Air Line Railway and the McJunkin Line was forced to go out of business, how would you interchange freight?

A. According to our present understanding we will be unable to interchange with any carrier, it might become necessary then to stop at Fernandina.

[fol. 1505] Q. So you would have no alternative otherwise than stopping at Fernandina to serve your own freight?

A. We might give up that transportation that affected Fernandina and lose the revenue.

Q. How would the public be served?

A. The public would have less routes available into Fernandina, they would have no choice of routes.

Q. Have you found Mr. McJunkin's service adequate for your needs?

A. Yes.

Q. Have you any qualifications that you wish to make on that answer?

A. No.

Cross-examination.

By Mr. Oven:

Q. How much tonnage do you deliver to McJunkin in a year?

A. I do not have those figures, the amount is infinitesimal—it is not more than infinitesimal anyway, I would say it is probably about the same as the outbound shipments from Fernandina over your line, less than carload, some where within that range.

Q. You mean to say you deliver as much coming in there as the Seaboard Air Line hauls out by rail and by truck?

A. Well, it will be somewhere within that range, for instance, if you want any exact figures I simply can't give them to you.

Q. Why can't you?

A. For the same reason that some of your witnesses——

[fol. 1506] Q. Can't you get up that statement, have you got a representation sheet here in Jacksonville?

A. Yes.

Q. I ask that you submit that over a period of the same time shown by our statement, to-wit, November 16, 1937, to June 15, 1938?

A. I am not particularly anxious to.

Mr. Matthews: You might give them that if you can furnish it.

Mr. Oven: File it with the Examiner and give me a copy.

Examiner Yardley: Within 20 days.

The Witness: Yes, sir, I can do that; I might call your attention to the fact that during one month on your sheet 2 the amount of freight shows forwarded from Fernandina, intrastate, LCL, 541 pounds.

Q. Let that statement show whatever it will show?

A. I am sure it will be within that range.

(Above information to be furnished within 20 days by witness Bliss).

Q. Assuming, for the sake of argument, that the McJunkin Line did go out of business, and that you received freight consigned to Fernandina, you have stated that you have three steamers a week passing each way?

A. Three motor ships.

Q. Well, they are vessels?

A. Yes.

[fol. 1507] Q. Couldn't that freight go in on one trip and let the other two go by, if necessary, would it be necessary for each vessel to go into Fernandina each way on each trip?

A. So far as the vessels are concerned, they do not need to go about——

Examiner Yardley: Could they or could they not?

The Witness: I don't think I can give a "Yes" or "No" answer.

Examiner Yardley: You wouldn't want to do it, but the boat could come up there just the same as it passes by, surely it could stop.

The Witness: There would be practically no expense to the boat as to stopping there, the expense would go through initiating any service, putting in a warehouse, etc., I would say $2.50 would cover stopping the boat.

Examiner Yardley: Your answer is "Yes" you could but it would be too expensive—let's forget it.

Mr. Oven: That is all.

(Witness excused).

J. C. STEADMAN, was sworn and testified as follows:

Direct examination.

By Mr. Kitchen:

Q. What is your name?
A. J. C. Steadman.
Q. And you are connected with what Company and in [fol. 1508] what capacity?
A. The K. & L. Transportation Company, General Traffic Manager.
Q. They are common carriers by truck?
A. Yes, sir.
Q. Do you interchange freight with the McJunkin truck or bus lines?
A. Yes, sir.
Q. Do you find their service adequate for your needs?
A. Yes, sir.
Q. Have you ever made an investigation into the territory between Jacksonville and Fernandina, particularly with reference to Fernandina?
A. No, sir.
Q. Approximately what tonnage do you give McJunkin?
A. I can't give you any accurate figures on that.

Examiner Yardley: Can you give him any?

The Witness: Yes, I might say in explanation that we have a coordinated service with other truck lines throughout the United States, by virtue of joint rates and there is a natural flow of traffic, of which a quantity would be destined to Fernandina.

Q. Mr. Steadman, you heard the testimony of the witness on the stand for the Seaboard Air Line?
A. Yes, sir.
Q. If the Seaboard Air Line was granted this certificate [fol. 1509] and you could not make an interchange with said Seaboard Air Line, how would you get your freight to Fernandina?
A. The only way we could get it there would be to send it by the Seaboard Air Line.
Q. They would not make an interchange, according to the witness, is that correct?
A. No, sir, we would have to ship it as consignor.

Q. Then could you establish through rates from points in Georgia and other States to Florida?

A. No, sir, it would be a combination of locals.

Q. Would that be higher or lower than the through rate?

A. It would be higher.

Q. Is there any other statement which you wish to make for the record?

A. Nothing other than this, if we don't have the McJunkin Truck Line to interchange with, there is other carriers that wouldn't be apprised of the fact that there was no service into Fernandina by motor carrier and it would inconvenience some customers, the same consignors who would make a shipment by truck and there would be no method of disposing of them to effect the ultimate delivery, except by the process I mentioned and by doing that it would cost the customer an additional expense.

Q. Do you ever have an occasion to drive from Jacksonville to Yulee on U. S. Highway 17?

A. Yes.

[fol. 1510]. Q. Is that often?

A. I usually make the trip at least once a month.

Q. From your observations, would you say that U. S. Highway 17 from Jacksonville to Yulee is congested or not?

A. Fortunately the times I have been over it, the times I have been over it it doesn't show much congestion.

Cross-examination.

By Mr. Oven:

Q. Do you operate through Yulee to Brunswick?

A. No.

Q. Does your truck pass Yulee at all?

A. No.

Q. What is the nearest point to Fernandina that your trucks touch?

A. That would be a matter of guess, I would say possibly Callahan.

Q. How far is that from Fernandina?

A. I don't know.

Q. That is on the Seaboard Air Line?

A. I understand by the testimony of your witnesses that it is.

Q. Then if this dire result that Mr. Kitchen presupposes comes to pass, you can deliver your freight to Callahan and——

A. Yes, we could if the arrangements could be made.

Q. You could deliver it to the St. Johns River Line and let them stop there?

A. Not where a customer designates a truck routing.

[fol. 1511] Q. Don't they operate as a truck, as well as steamer?

A. You speak of the truck and steamer, it would be steamer.

Q. It would be a truck line handling it?

A. We would be, in connection with the water line.

Redirect examination.

By Mr. Bliss:

Q. You could not interchange with us at Fernandina unless we decided to serve the town?

A. No.

By Mr. Kitchen:

Q. Do you see any reasons to put Mr. McJunkin's line out of business for the purpose of establishing a boat line for the St. Johns River Company?

A. No.

Chairman Matthews: I think you are going too far afield because it is all supposition about him going out of business, he is operating today.

Wayne F. McJunkin was sworn and testified as follows:

Direct examination.

By Mr. Kitchen:

Q. What is your name?

A. Wayne F. McJunkin.

Q. Mr. McJunkin, what business are you in?

A. In the Truck and Bus Transportation business.

Q. What is the name of your Company?

A. The Wayne F. McJunkin Truck and Bus Line.

Q. Where do you operate from and to?

A. From Fernandina to Jacksonville.

[fol. 1512] Q. Over what highways?

A. State Highways 3 and 13.

Q. 3 to Yulee and 13 to Fernandina?

A. Yes.

Q. How long have you been so engaged in business?

A. I have been in business there about 15 or 16 years.

Q. Did you at one time have a contract with the Seaboard Air Line Railway to transport passengers and freight to Fernandina to Yulee?

A. Passengers, mail and express.

Q. Passengers, mail and express?

A. Yes, sir.

Q. Mr. McJunkin, are you operating at capacity now?

A. No, sir.

Q. Approximately what proportion—what volume, is it half, full, threequarters or what?

A. Compared to any particular time?

Q. No, I am speaking of at the present time, from Jacksonville to Fernandina?

A. Oh, I would say it is twothirds perhaps.

Q. What is your daily volume for tonnage from Jacksonville to Fernandina?

A. I would say in the neighborhood of an average——

Q. Yes?

A. The average would run around 3 tons or 6000 pounds.

[fol. 1513] Q. What would be your total daily average or tonnage from Fernandina to Jacksonville?

A. From Fernandina to Jacksonville?

Q. Yes.

A. Well, I would say in the neighborhood of an average, I imagine around 700 or 800 pounds, probably 1000.

Q. What transportation facilities are offered to the City of Fernandina in addition to your truck line?

A. The Seaboard Air Line by train and then they have a truck that operates there.

Q. Does the Railway Express operate into Fernandina?

A. Yes, from Yulee, that is by bus and truck.

Q. Do they have any express delivery from Jacksonville to Fernandina?

A. By motor car.

Q. By rail or motor car?

A. They have rail to Yulee and motor to Fernandina.

Q. Have you made an investigation in the City of Fernandina to ascertain whether or not additional transportation facilities were needed?

A. Yes, sir.

Q. What did you find from such investigation?

A. I found there was not any need.

Q. For additional service?

A. Yes, sir, I found there was no need for any addi-
[fol. 1514] tional service.

Q. If additional service was required, would you be in position to supply such additioinal service by the addition of another truck?

A. Yes, sir.

Q. What schedule do you operate on?

A. The truck schedule leaves Fernandina at 9 in the morning and arrives at Jacksonville at 10:30.

Q. What time do you leave Jacksonville?

A. Scheduled to leave at 3.

Q. And what time do you arrive at Fernandina?

A. 4:30.

Q. And you only operate one truck in that service?

A. Except when we have an overload, we have another truck coming here from Fernandina to help us out when we have that.

Q. How often does such an occason arise that you have an overload?

A. I can't recall just when, I don't recall, where it required an additional truck—oh, I would say perhaps once a month or something like that, and then again once in two months.

Q. Did you file a financial report with the Florida Railroad Commission?

A. Last year?

Q. Yes.

[fol. 1515] A. Yes.

Q. Did you show a profit or loss on such a report as compared with 1936 to 1937?

A. Well, of course, the combination of the bus and truck, I showed a profit, I don't recall just what the difference in the service was, but that is the truck and bus service.

Q. With your truck operations segregated there, your passenger operations for the year of 1937 to 1938, compare

that with the year of 1936 to 1937, does it show a gain or loss?

A. It showed a gain in 1937, that was due to the fact of business increases, in other words, the building of two pulp mills there and things of that nature which naturally raised the tonnage.

Q. Those mills are now completed, one is and the other one is not?

A. No.

Q. You and the Seaboard Air Line and the Express Company have given service all through that period?

A. Yes.

Cross-examination.

By Mr. Oven:

Q. Mr. McJunkin, when did you begin operating this truck service out of Fernandina into Jacksonville?

A. Truck service?

Q. Yes.

A. I think it was way back in 1928 or 1929.

[fol. 1516] Q. Was the Seaboard Air Line operating in there at that time?

A. Yes.

Q. You state that 1937 showed an increase because of the construction going on, as to the installation of these two pulp mills and that one has now been completed?

A. Yes.

Q. And the other will shortly be completed, will it not?

A. I couldn't say.

Q. Isn't it a fact that the construction of those two pulp mills in Fernandina will afford employment to quite a number of people in that community?

A. I don't think there is any question about it.

Q. Doesn't it naturally follow that the increased population brought about by that construction would increase business into and out of Fernandina?

A. Well, I might state here that for the last four months, since the mill has started to operate, that business has gone down instead of up.

Q. That was because of the large volume of stuff moving in for the construction, wasn't it? Is business now less than it was in 1936?

A. I believe it is, yes.

Q. Will you state that positively?

A. Yes.

Q. How many men do these mills employ?

[fol. 1517] A. I don't have any idea.

Q. You operate by Callahan on one truck?

A. No, not the truck.

Q. Not on that truck?

A. No.

Q. You operate——

A. The truck goes direct to Fernandina over No. 3 and No. 13.

Q. Your bus handles packages to Callahan?

A. Yes.

Q. Can you tell me what your interchange is with the other truck lines in Jacksonville, interstate business?

A. You mean the nature of the shipments?

Q. No, the tonnage that you get from your truck connection in Jacksonville consigned to Fernandina coming from without the State?

A. Well, I couldn't state that positively, I don't remember what the figures are.

Q. Well, in round figures?

A. I imagine it would amount to, it would average around 1500 or 2000.

Chairman Matthews: A month?

The Witness: Yes.

Chairman Matthews: That would be only about 200 pounds a day.

The Witness: Yes.

Chairman Matthews: No, it wouldn't be that much. It [fol. 1518] would be about 50.

The Witness: Yes.

Q. What would be the average of your interstate business that you delivered to truck connections in Jacksonville, moving out of Fernandina?

A. You mean freight?

Q. Yes.

A. Well, it is practically all interchange—no, it wouldn't all be either.

Q. That is interstate?

A. At the present time I think that that averages around 500 or 600 pounds a day.

Q. Then you have more outbound interstate business than inbound?

A. At this time I think we have.

Q. What commodities does that consist of?

A. Of empty drums, shark hides and shark fins and things of that nature.

Q. Will you furnish, for the benefit of the record, a statement for the month of January showing your inbound tonnage interstate and your outbound tonnage interstate?

Chairman Matthews: For 1938?

Mr. Oven: Yes.

The Witness: Yes, I can do that.

Examiner Yardley: He will be allowed 20 days.

[fol. 1519] (Statement heretofore referred to by — to be furnished within 20 days by Witness McJunkin.)

Redirect examination.

By Mr. Steadman:

Q. Isn't it a fact that your truck line over the period of 1938, up to now, has shown that you operated at a loss?

A. I believe it would, yes.

Q. Will it show the same thing for 1937?

A. Well, no, not compared with 1936 it wouldn't.

Q. I mean the actual revenue coming in and the expense paid out?

A. I don't recall, it would be a slight profit I think, or it might be a slight loss, I couldn't say off hand, it is pretty close.

Q. Any additional service into Fernandina would mean a loss in tonnage to you, wouldn't it?

A. Yes.

Q. Would you say there is any new tonnage that would be available by additional service which could be initiated by virtue of a new service?

A. I don't think so.

By Mr. Kitchen:

Q. These new factories that you speak of, will the majority of their shipments be in carload lots or LCL?

A. The majority of it, as I understand, will be in carload lots.

[fol. 1520] Q. Is the wood that is brought in to make the pulp, is that usually handled by truck or rail?

A. I would say the larger percentage is handled by rail.

Q. And the other, would you say, that is handled by private truck?

A. Yes.

Mr. Kitchen: That is all:

Recross-examination.

By Mr. Oven:

Q. Have you lost any tonnage into or out of Fernandina that has been delivered to the Seaboard Air Line or its connections for transportation?

Mr. Kitchen: Mr. Chairman, I consider that question too speculative, it calls for a conclusion on the part of the witness, the Seaboard Air Line has not started the operation, so they say.

Mr. Oven: I didn't say by truck, I asked him if he had lost any—the point is this, this business belongs to the Seaboard Air Line, now it moves in and out of there by rail, he doesn't get it any way and he has not been getting it, although he has been operating for several year-, consequently it can't be a loss to him if we move it by truck.

Mr. Kitchen: That is purely a conclusion of Counsel, I would like for the Counsel to take the witness stand and be put on oath.

Chairman Matthews: Objection sustained.

(Witness excused.)

[fol. 1521] James P. Page was sworn and testified as follows:

Direct examination.

By Mr. Kitchen:

Q. Where do you live?

A. Callahan.

Q. Do you have a business in Fernandina?

A. Yes.

Q. What business?

A. Service Station.

Q. Do you receive interstate shipments or do you ship interstate shipments?

A. Yes.

Q. What transportation facilities do you use in the receiving or shipping of such shipments?

A. As an individual I use the bus line, sometimes my Company uses the Seaboard Air Line.

Q. Are you familiar with the transportation facilities in Fernandina?

A. Yes.

Q. What transportation facilities are there there?

A. Seaboard Air Line and McJunkin.

Q. Does the Railway Express also operate in there?

A. I understand it does, over the Seaboard Bus.

Q. From your knowledge of business conditions in Fernandina and the knowledge of your own business, would [fol. 1522] you say there is adequate and sufficient transportation facilities now existing?

A. Yes.

Q. From your investigation, have you found any need for additional transportation facilities?

A. No.

Cross-examination.

By Mr. Oven:

Q. You say you used the truck lines personally?

A. Yes, sir.

Q. About how much tonnage do you give them interstate per month?

A. I don't give them but very little, I wouldn't know just how much, it would be a very small amount interstate; on intrastate it would only run to a small amount.

(Witness excused.)

George D. Joyner was sworn and testified as follows:

Direct examination.

By Mr. Kitchen:

Q. What Company are you connected with?

A. The R. C. Motor Lines.

Q. In what capacity?
A. Vice President.
Q. Do you handle any of the traffic?
A. Yes, sir.
Q. You are familiar with the shipment of freight?
A. Yes, sir.
[fol. 1523] Q. Have you at any time had any occasion to use the McJunkin Bus and Truck Line to Fernandina?
A. Yes, a couple of months ago we had one shipment.
Q. Is that the only time?
A. The only time that I can recall.
Q. McJunkin is shown in the Southern Motor Carriers Rate Conference Guide?
A. Yes.
Q. Do you avail yourself of that carrier as a connecting carrier for shipments destined to Fernandina?
A. Yes.

Cross-examination.

By Mr. Oven:

Q. You say you only had one shipment?
A. Yes, sir.
Q. Was that interstate or intrastate?
A. It was interstate.
Q. What was that?
A. It was interstate.
Q. This one shipment in the course of 12 months?
A. The only one I recall that we have had.

(Witness excused.)

A. J. RINCK was sworn and testified as follows:

Direct examination.

By Mr. Kitchen:

Q. Where do you live?
A. Fernandina.
[fol. 1524] Q. How long have you resided there?
A. 16 years.

Q. What business are you engaged in?
A. Mechanical contracting and bottled gas.
Q. Are you a member of the Chamber of Commerce?
A. Yes.
Q. You are not appearing here for the Chamber of Commerce?
A. No, sir.
Q. What transportation facilities are offered in the City of Fernandina?
A. Seaboard Air Line and Railway Express and McJunkin.
Q. From your investigation and knowledge what would you say as to the service now being offered in Fernandina, is it efficient or inefficient?
A. I have found it efficient.
Q. You do use the facilities for interstate shipments?
A. I use both, most incoming on the Seaboard Air Line and outgoing by McJunkin.

Cross-examination.

By Mr. Oven:

Q. What is the nature of your interstate shipments?
A. Bottled gas.
Q. Bottled gas?
A. Yes.
Q. About how much tonnage a month do you get in on [fol. 1525] interstate shipments?
A. I would say it would average between 1800 and 2500 pounds.
Q. That comes by rail or express?
A. Bull Steamship to Jacksonville and Seaboard Air Line to Fernandina.

Redirect examination.

By Mr. Kitchen:

Q. The service as offered by the Seaboard Air Line is satisfactory?
A. Yes.

(Witness excused.)

J. M. OXLEY was sworn and testified as follows:

Direct examination.

By Mr. Kitchen:

Q. Where do you live?

A. Fernandina.

Q. In what business are you engaged?

A. I run a Funeral Home.

Q. Are you familiar with the transportation facilities over in Fernandina?

A. Yes, sir.

Q. What are they?

A. Seaboard Air Line, Railway Express operating over the Seaboard Air Line, and the McJunkin Bus and Truck Line.

Q. From your investigation and knowledge of the conditions in and around Fernandina, would you say that [fol. 1526] such a City is adequately served now?

A. Yes, sir.

Q. Mr. Oxley, do you have any occasion to operate on State Road 13 to Yulee and from Yulee to Jacksonville on U. S. Highway 17?

A. I do.

Q. What is the condition of the Highway with reference to congestion?

A. I find traffic very congested, I travel around 5000 miles a month over the Highways in and around Fernandina.

Cross-examination.

By Mr. Oven:

Q. Is that the main road?

A. I am talking of 13 and U. S. Highway 17.

Q. When did you make that survey?

A. I have made it mighty nearly every day for the last 8 years.

Q. You say you run a funeral home?

A. Yes.

Q. What is the character of the goods that you have coming in and going out?

A. Caskets and embalming fluids.

Q. Caskets move by freight?

A. Yes.

Q. In carload lots?

A. No, not enough for that.

Q. How about the embalming fluids?

[fol. 1527] A. It comes in cases.

Q. You say it comes in cases?

A. Yes, some of the goods come over the Seaboard Air Line, some over truck lines.

Q. From where?

A. Different points, the greater portion comes from Jacksonville.

Q. Have you had any shipments this year?

A. Yes, by truck line.

Q. How many?

A. I don't know the exact number, a lot of times, I just got in my own equipment and go and get it myself.

Q. Do you buy it here in Jacksonville?

A. The major portion of it, yes.

Q. The amount you get out of the State of Florida is negligible?

A. Sometimes I have more than others.

Redirect examination.

By Mr. Bliss:

Q. Are you interested in retaining a choice of transportation agencies, I mean both rail and trucks?

A. I didn't get the question.

Q. I say, is it a benefit to you to have a choice of two transportation agencies, one rail and one motor?

A. Absolutely.

Q. Are you interested in being able to make that choice [fol. 1528] yourself insofar as the shippers and people you do business with—they leave the routing up to you?

A. Yes, there are certain hours of the day I might want something delivered, I might want it and couldn't get it in schedule time.

Q. Suppose you ordered a shipment over a mixture of rail and truck service and you didn't know whether that shipment would arrive by truck, at one hour, or by rail at another hour, would that uncertainty as to its arrival be embarrassing to you?

A. In all probability, yes, on certain occasions, but on those cases I specify the transportation service.

Q. Suppose you were unable to make the choice yourself?
A. It might prove embarrassing at times.

Recross-examination.

By Mr. Oven:

Q. How many coffins a year do you get in from out of the State as distinguished from what you buy in Jacksonville?

A. I have around 70 to 75 funerals a year, I would say approximately about one quarter of them comes from out of the State.

Q. About a quarter of them?

A. Yes.

Q. Would the percentage be the same as to the embalming fluid?

A. Practically all of that comes from out of the State.

[fol. 1529] Q. That comes by freight or express?

A. It comes by freight unless I specify express.

Q. That moves in then by rail?

A. Sometimes by rail and sometimes by truck line, according to which Company is comes from.

Redirect examination.

By Mr. Schwartz:

Q. In connection with your funeral home, you render ambulance service?

A. Yes.

Q. That is on U. S. Highway 17 between Jacksonville through Yulee and North?

A. Yes, and within a radius of 50 miles.

Q. You use Highway 17—is that one of the main tourist arteries?

A. Yes.

Q. What is the condition of that Highway at the present time?

A. Very poor, there has been a little work done on it, but in my opinion it is now worse than it was before they did the work.

Q. That is from the Jacksonville City limits to the Nassau County Line?

A. Yes.

Q. What is the description of that Highway?

A. It is broken—it is asphalt and all broken up; they widened it a little on each side and you can't tell where [fol. 1530] the Highway stops at all, it has got little ruts all in it. If you get off the main part you are liable to turn over. I came very near turning over myself. I drive the emergency ambulance and find it very hard to get around.

By Mr. Kitchen:

Q. Would you say it is a dangerous Highway?

A. Yes.

Q. Have you any reason why you would prefer rail service from Yulee to Fernandina as over truck service now offered by the Seaboard Air Line?

A. The only reason that I would prefer it, and which I had at all times, whenever I am shipping a body from Fernandina, I always take it to Yulee or else bring it to Jacksonville, because I don't care to send it over the truck, it shakes a body up and causes it to be in bad condition at the time it is received on the other end, and the same applies to coming in, I always go to Yulee and get the body, or go to Jacksonville.

Recross-examination.

By Mr. Oven:

Q. Does that move by passenger or freight?

A. By passenger train or by truck from Yulee in.

Q. That really would come in on the Yulee-Fernandina truck and not on the Jacksonville truck?

A. Yes.

Q. And you make a good many deliveries with your own ambulance?

A. Yes.

Q. And haul a good deal of your own stuff?

[fol. 1531] A. Yes.

(Witness excused.)

McCarthy Crenshaw was sworn and testified as follows:

Direct examination.

By Mr. Kitchen:

Q. What is your name?

A. McCarthy Crenshaw.

Q. What is your business, and with what Company are you connected, and in what capacity?

A. I am a practicing attorney and also hold the office of Assistant Secretary of the L. & L. Freight Lines.

Q. As such officer are you familiar with the traffic conditions of the L. & L. Freight Lines?

A. Not in detail, but representing the owners of the Company, the Company makes monthly reports to me and I in turn convey that information on to the owners and I am familiar with the general operating conditions of the Company.

Q. Does the L. & L. interchange freight with the McJunkin Truck and Bus Company?

A. Yes, sir.

Q. Have you found their service adequate for your needs?

A. Yes, sir.

Cross-examination.

By Mr. Oyen:

Q. How much of that interchange freight is interstate?

A. I think I can best answer your question in this way: [fol. 1532] The Florida carriers, common carriers by motor vehicle, have an unusual problem in that practically 65 percent and sometimes 70 percent of the haul is southbound, coming from the North into Florida, and our operation out of Florida North, I speak of it running practically empty, and the freight that we have to interchange with McJunkin would bear the same proportion, that is, by far the greater portion would be the freight that moves into Florida in interstate commerce.

Q. What is your interstate tonnage per month that you deliver to Mr. McJunkin?

A. I am not sufficiently familiar with the details of the Company to give you that.

Q. I will ask that you be required to furnish a statement for the month of January, 1938, showing interstate freight moving in and out of Jacksonville for and from Fernandina?

A. We will be glad to furnish such a statement.

Chairman Matthews: Let's have it in 20 days.

(Statement referred to above to be furnished within 20 days by witness Crenshaw.)

Redirect examination.

By Mr. Steadman:

Q. In the event that this application is granted and the McJunkin Truck and Bus Line is forced to retire from business, would you have anybody to interchange your freight with?

A. To my knowledge McJunkin is the only carrier running in there that is strictly a motor vehicle carrier.

[fol. 1533] Q. You would have no other means of interchanging freight except with the Seaboard Air Line?

A. That is right.

Recross-examination.

By Mr. Oven:

Q. This freight that you delivered to McJunkin is received by your line from the North or its connection?

A. Some of it is given to us at Atlanta and we also have the privilege of picking up freight in Georgia in interstate commerce as far as Waycross.

Q. It is all freight delivered to your Company as a motor carrier or other motor carrier connected with your Company?

A. Yes, now that is incorrect, because we do have a service with the Universal Carloading Company where rail shipments are brought South as far as Atlanta and are broken up.

Q. It moves then by truck to Florida?

A. Yes.

Q. And then by McJunkin Truck into Florida?

A. Yes.

Q. But none of it is freight that is delivered to the Railway Company for transportation into Florida?
A. Not that I know of, no, sir.

Redirect examination.

By Mr. Bliss:

Q. Do you interchange with water carriers such as the Coastwise Steamship Lines?
A. I believe we do.
[fol. 1534] Q. Generally speaking, is the L. & L. Freight Lines and its connections in competition with the Seaboard Air Line and its rail connections?
A. Absolutely.

(Witness excused.)

Examiner Yardley: Any briefs to be filed?
Mr. Oven: I would like to file a brief, how much time will be allowed?
Mr. Kitchen: Mr. Examiner and Chairman, can't we have more than 30 days in this case?
Examiner Yardley: Is August 1 satisfactory?
Mr. Kitchen: Yes.
Mr. Oven: It suits me.
Examiner Yardley: Then, if an extension of time is required, your request for an extension must be in the Washington office seven days before the brief—file a copy of the brief with the Examiner and one with Mr. Matthews.
Mr. Crenshaw: I wish the record to show that McCarthy Crenshaw appears for the L. & L. Freight Lines, Inc., as a party protestant to this application for the reason that the L. & L. Freight Lines, Inc., has a material interest in this application and wishes to participate in the complete proceedings.
Mr. Oven: Now, I understand the exhibits will be fur-
[fols. 1535-1536] nished in 10 days.
Chairman Matthews: 20 days. The Board will take this case under advisement.

(Whereupon, at 11:35 o'clock a. m., the hearing closed.)

[fol. 1537] Before the Interstate Commerce Commission

Docket No. MC 86687 (Sub. No. 19)

LEGH R. POWELL, JR., and HENRY W. ANDERSON, Receivers of Seaboard Air Line Railway Company—Application for Certificate Form BMC 8

Floridan Hotel, Tampa, Florida,
January 23, 1939, 10 o'clock a. m.

Before Joint Board No. 205; Hon. Eugene S. Matthews of Florida, Chairman

Also Present: Examiner Richard Yardley, of the Interstate Commerce Commission.

Met pursuant to notice.

APPEARANCES:

W. J. Oven, Midyette-Moor Building, Tallahassee, Florida, appearing for Legh R. Powell, Jr. and Henry W. Anderson, Receivers of Seaboard Air Line Railway Company, Applicant.

Edgar Watkins, Jr., Bona-Allen Building, Atlanta, Georgia appearing for Southern Motor Carriers Rate Conference, Protestant.

John M. Allison, 305 Morgan Street, Tampa, Florida, appearing for Common Carrier Division, Florida Trucking Association; Central Truck Lines; Hunt Truck Line; Great [fol. 1538] Southern Trucking Company; Acme Freight Lines; L. & L. Freight Lines; Star Truck Line; Bee Line Transfer; Green Brothers Transfer; Tarpon Truck Line; Tamiami Trail Tours; Fogarty Brothers Transfer; Overseas Transportation Company; Peters Truck Lines; Atkinson Truck Line; University City Transfer: Protestants.

J. A. Bliss, P. O. Box 90, Jacksonville, Florida, appearing for St. Johns River Line Company; Harold R. Edwards d.b.a. Edwards Line; Harold R. Edwards d.b.a. Hartline Line: Protestants.

[fols. 1539-1541] Proceedings

Chairman Matthews: Let's have order.—The interstate Commerce Commission has set for hearing at this time and place Docket No. MC 86687 (Sub. No. 19) in the matter of

the application of Legh R. Powell, Jr., and Henry W. Anderson, Receivers of Seaboard Air Line Railway Co., of S. A. L. Railway B ''ding, Norfolk, Virginia, for a certificate of public convenience and necessity, Form BMC 8, authorizing extension of operations as a common carrier by motor vehicle in the transportation of commodities generally, in interstate Commerce in the State of Florida over the following routes:

I assume that all interested parties have notice of this? It is not necessary to read this in detail?

Mr. Watkins: It is all right with me.

Chairman Matthews: Said hearing being set before Joint Board No. 205, composed of Eugene S. Matthews of Florida.—Who appears now for applicant?

Mr. Oven: W. J. Oven, Midyette-Moor Building, Tallahassee, Florida, for applicants.

Chairman Matthews: Who appears for protestants?

Mr. Watkins: Edgar Watkins, Jr., for the Southern Motor Carriers Rate Conference; offices Bona Allen Building, Atlanta, Georgia.

Mr. Allison: John M. Allison, for the Common Carrier Division, Florida Trucking Association; and the following [fol. 1542] lines: Central Truck Lines; Hunt Truck Lines; Great Southern Trucking Company; Acme Freight Lines; L. & L. Freight Lines; Star Truck Lines; Bee Line Transfer; Green Brothers Transfer; Tarpon Truck Line; Tamiami Trail Tours; Fogerty Brothers Transfer; Overseas Transportation Company; Peters Truck Line; Atkinson Truck Line; University City Transfer. My office is at 305 Morgan Street, Tampa, Florida.

Mr. Bliss: J. A. Bliss, Jacksonville, Florida, appearing for St. John's River Line Company; Harold R. Edwards, doing business as Edwards Line; Harold R. Edwards, doing business as Hartline Line.

Examiner Yardley: What is the interest of the protestants? Do you operate over part or all of the route covered by the application?

Mr. Bliss: That is true, as to the lines I am representing.

Examiner Yardley: And you, Mr. Allison?

Mr. Allison: As to these lines, the following operate in a part or all of the territory involved in the application: Tamiami Trail Tours, Star Truck Lines, Great Southern

Trucking Company. Hunt Truck Line serves every point involved. Central Truck Lines.

Examiner Yardley: And what is the interest of the other lines?

Mr. Watkins: The interest of the other lines is the in-
[fol. 1543] terest of the motor carrier——

Examiner Yardley: Wait a minute; Mr. Allison, didn't you appear for other trucking companies?

Mr. Allison: I appear for the common carrier division of the Florida Trucking Association. Their interest in this proceeding, protesting this, is the interest of the motor truck common carrier industry. While they are not directly serving this territory involved, they are interested, because they are members of that association, and in the same industry.

Examiner Yardley: And your interest is practically the same?

Mr. Watkins: The interest of the Southern Motor Carriers Rate Conference is that the Seaboard Air Line Railway are attempting to parallel their entire system with truck service. They have on file with the commission some 19 applications, which are subdivided in such a way as to make it impossible to have a fair hearing concerning any of them. The trucking industry as a whole is opposed to allowing any railroad to go to the trucking business, where there is existing trucking service available; and as such, we oppose the application of the Applicant in this case: As well as the fact that we represent members,—number of carriers, who serve the actual territory asked to be served by the Seaboard Air Lines.

Examiner Yardley: All appearing here have been admitted to practice before the Commission, as I understand?

[fol. 1544] Mr. Watkins: Yes.

Chairman Matthews: We are ready to proceed.

Mr. Watkins: Mr. Chairman, before you proceed, on December the 5, 1938, after this case was set for hearing, and after cases involved in the same docket number and Sub. Nos. 1, 11, 12, 13, 14, 16, and 17 were set for hearing in Atlanta, Georgia. On behalf of the people that I represent I filed with the Interstate Commerce Commission a petition for intervention for all of those cases, and a motion for consolidation of these cases and a setting before

the proper authority. That petition was returned to me by Interstate Commerce Commission under sate of December the 10th, stating that I might make that petition before the Joint Board that was here, hearing this case. Having had previous experience along such lines in the hearings under the same docket number, Sub. No. 11, in Columbia, South Carolina on June the 11th, in which the Joint Board ruled that my motion was not timely, in that it should be submitted to the Commission, I returned the said petition to the Commission under date of December the 13th, informing them of their former ruling; and under date of January the 4, the Commission acknowledged receipt of my petition. However, no ruling has been made on the same; and at this time I desire to submit to the Chairman a copy of my petition and ask that the ruling be made thereon. And in the absence of any ruling being made thereon, I want to object to this hearing proceeding [fol. 1545] on the ground that hearing is one that under the Act must go before a properly constituted Joint Board, which would be one composed of a representative of the State of Virginia, North Carolina, South Carolina, Georgia and Florida,—or before an Examiner. Because the Seaboard Air Line Railroad has on file with the Commission, grandfather clause applications, or new applications, that involve trucking service in all of those five states. And even if their truck service is not connected, they have rail service and truck service in all of those five states, and thus the application here is only a part of a scheme of the Seaboard Air Line Railway to begin complete truck service in the five states I have named. Thus the Joint Board here is il-egaily constituted, and has no authority to pass upon this matter. And I wanted *at* distinctly understood that my appearance here this morning in no way waives the objections that I have made to this and similiar hearings that have been held on this and related dockets.

Mr. Oven: May it please the Board, i- seems to me that if any such application as this was to be made at this time, in the first place, we s-ould have been given notice of it; because we have here witnesses from practically every point served by these truck lines to testify as to the convenience and necessity of such. Furthermore it is a service permitted by the legislature of the State of Florida, and is only fron Tampa to Sebring, handling freight that

[fol. 1546] comes into Tampa by rail, and it will go out of Tampa by rail. It is no- connected interstate shipment by truck, whatsoever. In fact I know of no truck line operated by the Seaboard except possibly one,—there may possibly be two, that operate between States; and under the Motor Carrier Act, why this is the proper board to hear this application.

Mr. Watkins: Mr. Chairman, in connection with the statement made by counsel, I want to call the Commission's attention to the fact that on December the 5th, a copy of this petition was sent by registered mail to the Seaboard Air Lines, and that on December the 7th Mr. Charles T. Abeles as counsel for the Seaboard Air Lines, acknowledged the receipt of the same, and answered the petition before the Interstate Commerce Commission. So the applicant cannot contend that they did not have notice of my contentions. And in connection with the statement he has made, concerning the Intrastate applications, may I ask that,—in order that the record may be clear, whether or not the applicant is relying upon—for this application—upon the fact that he has been granted interstate rights over the same territory by the Florida Railroad Commission.

Mr. Oven: We are not relying on it entirely. That is one of the points on which we rely; one of the points made upon the hearing.

Mr. Watkins: Does the applicant contend that the fact that they are given interstate—I mean intrastate rights, [fol. 1547] automatically gives them interstate rights over the same territory?

Mr. Oven: No, it wouldn't be here if that was the case.

Chairman Matthews: The motion of counsel will be overruled. The Interstate Commerce Commission has set the matter down for hearing before this Board, and therefor we will proceed under their instructions.

Mr. Watkins: May an exception be noted, Mr. Chairman?

Chairman Matthews: Yes, note the exception.

Mr. Oven: To save time, may we not have it understood that to any ruling exception will be noted without encumbering the record with it?

Chairman Matthews: That will be all right.

Mr. Oven: The applicant now offers a certified copy of order No. 1880, Docket No. 216 of the Railroad Commis-

sion of Florida, authorizing the operation of the truck service along the line of the railway of the Seaboard Air Line, as between Tampa, and Sebring, at stations given over road shown in the map, touching only points served by the Seaboard Air Line Railway.

Mr. Watkins: May I have a copy of the same?

Mr. Oven: I have no copy of it; I can have one made for you.

Mr. Watkins: May I ask counsel, what is the purpose of offering this?

Mr. Oven: To show that we are now authorized to oper-
[fol. 1548] ate in intrastate business.

Mr. Watkins: That is the only purpose you have in offering it?

Mr. Oven: Yes.

Mr. Watkins: I have no objection, but I would like counsel to furnish me with a copy later.

Mr. Oven: I will do it.

Chairman Matthews: You offered that as an Exhibit?

Mr. Oven: Yes, sir.

Chairman Matthews: It will be received and marked applicant's Exhibit No. 1.

(Exhibit No. 1, for applicant, received in evidence.)

Mr. Oven: The next,—we ask that the Board take judicial notice of the case of Central Trucks Lines, Inc., versus Railroad Commission of Florida, reported in 182 Southern, Page 783, decided February 9, 1938, re-hearing granted and re-affirmed in July 1938 not reported in the Florida Reports, in which the Act under which the certificate for intrastate service was granted has been held constitutional and valid.—Mr. Abramson, will you come forward and be sworn?

Mr. Sam Abramson was sworn and testified as follows:

Direct examination.

By Mr. Oven:

Q. State your name please.

A. Sam Abramson, Sebring, Florida.

[fol. 1549] Q. You reside at Sebring, Florida?

A. I own the Hub Department Store in Sebring.

Q. Are you engaged in business, Mr. Abramson?

A. I — been there for the last ten years, yes sir.

Q. What line of business are you in?

A. General merchandise.

Q. Do you receive at the present time, by the Seaboard Air Line Railway, any freight from beyond the State of Florida, in interstate freight?

A. Lots of times, yes sir.

Q. Do you receive less than carload shipments in that way?

A. Not carloads.

Q. Less than carloads?

A. Yes, sir.

Q. Do you receive any freight from Tampa now, by the truck line being operated by the Seaboard Air Line, into Sebring? That is shipped out of Tampa and other points in the State?

A. I didn't quite catch that.

Q. Do you receive any shipments from Tampa direct?

A. To Sebring?

Q. Yes.

A. Yes, sir.

Q. State whether or not the authorization of this truck service to handle interstate shipments into Sebring, would be a convenience and is necessary to your business?

[fol. 1550] A. Well, I want to say this:

Q. Just keep your seat.

A. Thank you; I get shipments from the Hunt Truck and Central Truck Lines, and all the truck lines. But when I buy a bill of goods from Baltimore or any other state, and it has got to come here to Tampa and has got to lay over until they have—until they are connected with the freight trail, then bring it to Sebring, it delays me, and I need the goods sooner; and it would be more advantage to me if they would send it directly; you understand, take it off the train and put it on a truck, and send it on to me; would be more advantage to me to do that.

Q. That freight is delivered to the railroad at Baltimore, is it not?

A. Well if I buy goods in Baltimore.

Chairman Matthews: Let me interrupt just a moment; I am going to announce that under the rules of the Interstate

Commerce Commission we refrain from smoking during the hearing.—All right, proceed.

A. You see, if I buy a bill of goods in Baltimore. They ask me how do I want to ship it, Well, I tell them I want to ship it by the Seaboard; well they send it by the Seaboard, and if it comes in here it has got to lay over here until they get connections with another freight train; it may take four or five hours, maybe longer than that, before the [fol. 1551] goods come to me; and I need the goods, it would be more advantage to us, or to me personally, for them to bring their own truck and put it on the truck and let it go, instead of waiting until they get connections with the train. I think it would be a great more advantage to me by having it a little quicker than to lay it over here four or five hours and then ship it. That is the only reason I come here, and that is the only interest I am in it; otherwise, I don't care, the Seaboard or any others; I just came here for my own personally benefit.

Q. Do you think that this would benefit other receivers of goods?

A. Benefit everybody and everywhere; instead of keeping my goods here five or maybe six hours, to go ahead and send it right through and let me have it, instead of keeping it here.

Q. Wouldn't this service expedite the less than carload shipments by about 24 hours?

A. Well, I don't know anything about carloads, I never bought a carload.

Q. I say less than carload?

A. Yes, I think it would.

Q. Do you think it would benefit the other consignees there the same way?

A. I think so. I have a right to think that way, because it is the proper way to do.

Q. Do you receive any goods by Seaboard Rail service [fol. 1552] now, that were originally turned over to a truck line and later transferred to the railroad?

A. I don't think I did.

Mr. Oven: You may take the witness.

A. But I would be more satisfied if they would send my stuff right out, you know, immediately, than to keep it over here for several hours.

Cross-examination.

By Mr. Watkins:

Q. How many truck lines serve your place of business, Mr. Abramson?

A. Well, I do business with the Edwards and the Hunt and the Central Truck Line.

Q. Three of them.

A. They are just as nice as they could be, in the State, but if I bought a bill of goods in Baltimore and they got to ship it over here and they got to keep it here maybe overnight until they get connections, it delays the goods, and I need it; and I am a poor business man, a small one; and it would be more advantage to me and to others providing they would have their trucks and have their privilege to put the stuff right on, load it from the freight car and put it on their trucks and send it right out, instead of laying over here for several hours longer.

Q. These three truck lines that serve you, do they come out of,—where do they operate?

A. Only in the State.

[fol. 1553] Q. They operate only in the State?

A. Out of the state, they don't.

Q. Have you ever tried or asked that a shipment be routed from Baltimore to be delivered by the other lines, any one of the three? You never attempted to do that?

A. Never asked, and I don't think they could do it. I don't think, that that is—I don't know; the Hunt truck line goes to Baltimore and brings goods here; I don't — it. No, I never did it.

Q. You never investigated to find out whether they could?

A. No, sir, I did not. In fact they never come around to see me all they do, just bring their goods and I give them their money, and that's all there is to it.

Q. And their service is very nice?

A. Yes, I haven't got any objection to their service.

Mr. Watkins: All right, sir.

Mr. Oven: Otherwise than this delay at Tampa, do you find the Seaboard satisfactory?

A. That is the only reason I am here today, for that purpose.

By Mr. Allison:

Q. Do you know how many schedules as day these three truck lines have, running into your town?

A. I am not interested in it.

Q. Then you really don't know the full extent of your truck service that is available right now, do you?

A. I don't know, and I am not interested. All I just [fol. 1554] come here individually for my own purpose.

By Mr. Watkins:

Q. Mr. Abramson, you said you received goods from Baltimore,—did I understand you to say?

A. Yes, sir; from all over the country.

Q. Have you ever received a shipment by truck from Baltimore?

A. No, I don't think I did, because when I bought a bill of goods, from a wholesaler, they ask me how do I want it to be shipped; and I want it to be shipped to cost me the cheapest and the best.

Redirect examination.

By Mr. Oven:

Q. Were you patronizing the Seaboard Air Line Railway before this truck line between Tampa and Sebring was put on?

A. Yes, sir.

Q. In short, you have been a constant patron of it?

A. Yes, sir. If I could buy my goods directly and to be shipped right, I would be glad to—I am not obligated to none of them, to tell the truth. I don't want no favors from none of them. When I buy the bill of goods, do you understand, and when they come in and unload, they wait for their little check and I pay them for what I owe them. So it is immaterial to me who they are. None of them will do me anything unless I pay for it; they want money.

Q. Whether it is truck or railroad?

A. Whether it is truck or railroad, is right.

[fol. 1555] Mr. Watkins: The law requires that.

Recross-examination.

By Mr. Bliss:

Q. Mr. Abramson, do you ever receive any shipments that have travelled from Baltimore to Tampa over the boat line, water line?

A. I don't know how they travel, brother; I really couldn't tell you that, I don't know it. I couldn't give you that answer because I don't know.

Q. You say that you couldn't route shipments?

A. Write the house to send it to me the best they know how.

Q. Well you leave it up to them as how to send it?

A. Sometimes I have to leave it to them.

Q. I was wondering if you didn't know that the truck line could pick up a shipment at Tampa, that had come in from Baltimore by the Bull Steamship Line?

A. I don't know, sir.

Q. You never investigated that route?

A. No.

Chairman Matthews: All right; if that — all, you may stand aside.

By Mr. Allison:

Q. Mr. Abramson, if the Seaboard application here should be granted, do you understand that they are going to deliver that shipment of yours to your place of business, or just leave it in the same depot where you used to get it?

[fol. 1556] A. I couldn't tell you that.

Q. You just don't know that?

A. I don't know what they are going to do. If they don't give me service like I want it, I am going to tell them to go somewheres; get my goods. I am not obligated to nobody, brother. I come to you and ask you for service, I expect to pay for it. I am not connected with nobody else, only the one that treats me right, I will treat them right. I feel that way towards everybody. Otherwise I am a good old American citizen, and thank God I am here instead of being in Germany.

(Witness excused.)

Mr. Watkins: Mr. Chairman, just as a suggestion I would like to ask the Seaboard, the applicant here, to put in the record just what they are applying for, and hoe they intend to operate it, so that we will be able to more intelligently ask questions of the witnesses who are supporting the application. At the present time we don't know what service they are proposing, and it is very difficult and will probably enlarge the hearing if we have to cross-examine these witnesses before we have got any idea as to what service the applicant is proposing.

Mr. Oven: May it please the Board, I think the application shows what we propose to do; and I would be glad to furnish the gentleman schedules. My purpose in proceeding in this manner was to relelve these businessmen from various points along the line, let them get back to their work. Now Mr. Abramson and Mr. McRae are here from [fol. 1557] Sebring; we have some from Avon Park, Winter Haven, Lake Wales, and Bartow. I have of course *of course* the agents from those points, also the agent from Tampa, and also two train masters, to show the operation of our train service. Now it is my purpose to relieve these non-employees witnesses, and the agent at those stations so they can go back to their work. That was my purpose in proceeding along this line. I might call one agent here.

Mr. Watkins: I sympathize with these business men here, I know I would like to see them get back to their places of business as soon as possible; but I would like——

Examiner Yardley: What point is it you don't understand, Mr. Watkins?

Mr. Watkins: I don't know what schedule they intend to operate on, and just exactly how that truck is going to proceed from Tampa to Sebring, and how it is going to get up to Winter Haven, or Lake Wales, or some point like that,— just where it is going. I would like to know just when we can expect service from there at any given point on the line.

Mr. Oven: I can give you a copy of your schedule filed with the Railroad Commission of Florida, right here; that will give you the whole workd.

Chairman Matthews: You have a schedule filed with the Application, have you not, Judge?

Mr. Oven: Yes, sir.

[fol. 1558] Mr. Oven: They had notice of that.

(Discussion off the record.)

Mr. J. G. McRae was sworn and testified as follows:

Direct examination.

By Mr. Oven:

Q. State your name, please.

A. J. G. McRae.

Q. Where do you reside, Mr. McRae?

A. Sebring.

Q. Are you engaged in business there?

A. Yes, sir.

Q. How long have you been engaged in business in Sebring?

A. Since 1930.

Q. In what business are you?

A. Variety, merchandise.

Q. Do you receive shipments from Detroit, from beyond the limits of the State, to you, there, consigned by railroad?

A. Oh yes.

Q. What railroad serves you there?

A. Seaboard and the Coast Line.

Q. Do you find any delay in the present Seaboard service, interstate?

A. Well, that is hard to say, because, you see, I am not a freight man, and I depend largely on the officials of *hte* railroad to look out for that. We have very good service [fol. 1559] though. Now just what the delays might be, I would be at a loss to know. Of course, any small merchants particularly, in fact any merchant for that matter, the quicker they can get merchandise, why the better off they are; because a small merchant particularly can't afford to buy a lot of surplus merchandise, and when he buys it he needs it, the quicker he can get it the better off he is. Our turn over is our only prospect to make a living today.

Q. If this application is granted, and by being granted, expedited l. c. l. shipments to you moving interstate into Sebring, would that be a convenience to you?

A. It looks to me, as it is outlined to me, that it would be quite a help.

Q. Would it help the other merchants in your town as well?

A. If it helps me, I don't see any reason why it wouldn't help anybody else too.

Q. Then, don't you think, to the extent that it would benefit you by expediting the movement by practically 24 hours, that it is really a necessity?

Mr. Watkins: Where do we get this 24 hours faster?

Mr. Oven: We are going to prove this later on.

Mr. Watkins: How about proving it now and stop asking about it.

Mr. Oven: We come back to the same question, that I would like to get rid of these people from out of town.

[fol. 1560] Chairman Matthews: Mr. Reporter, read the question again.

Q. (Question read:) Then, don't you think, to the extent that it would benefit you by expediting the movement by practically 24 hours, that it is really a necessity),—to you and the other merchants of the town?

Chairman Matthews: I think he may ask that question. Perhaps, you might have asked, Judge, if it did expedite it, 24 hours.

Mr. Watkins: I think it would be a much better way to do it.

Mr. Oven: Strike the question.

Q. Then do you not think that if the granting of this application would, should it later be shown by the evidence, expedite the interstate service, to you and the other merchants in the town, wouldn't that be a necessity?

A. Yes, sir.

Mr. Oven: Does that suit you now?

Mr. Watkins: That is better, but it does not exactly s-it me, Judge.

Mr. Oven: Take the witness.

Chairman Matthews: Cross-examine.

Cross-examination.

By Mr. Watkins:

Q. When does the train that brings your freight into—Sebring is where you are, isn't it?

A. Yes, sir.

Q. —arrive?

[fol. 1561] A. I don't know.

Q. When do they propose for the truck to arrive, under this proposed service?

A. Well, I couldn't tell you that.

Q. When does the Hunt Truck Line arrive in Sebring?

A. Sometimes during the day, but I don't know what hour.

Q. When does the Central Truck Line arrive?

A. I know when I buy merchandise about when I should get it, and I expect it at that time.

Q. What time do you suppose you would get it?

Mr. Abramson: When they get ready,—excusing my expression.

Q. When do you usually get it?

A. I don't understand your question;——

Q. What time of the day do you usually get your freight in?

A. It usually comes, if it comes by freight, it usually comes up the first thing in the morning.

Q. You mean by rail?

A. Yes sir.

Q. You get it the first thing in the morning? And if it comes by truck, when do you get it?

A. When the truck line comes in there; sometimes it is nine o'clock in the morning; sometimes it is two o'clock in the afternoon. It is not always the same time. Now——

Q. Is the truck service slower than the rail service?

[fol. 1562] A. Well, I am not here to argue that question.

Q. I don't want to argue it with you; I want to find out the facts about it. Is it?

A. My only interest if I can get merchandise delivered faster or quicker.

Examiner Yardley: The time of the day is not so important, but the time in transit it is the important thing?

A. Yes, sir.

Q. Well, does the line that it comes in on, make any difference to you?

A. Not a particle.

Q. You would just as soon it would come over the coast line as the Seaboard?

A. I am not tied to anybody or married to anybody except my wife.

Q. How much freight do you get, inbound over the Coast Line, compared to what you get over the Seaboard?

A. Well, most of our freight comes by Seaboard.

Q. You don't get much by Coast Line?

A. Very little.

Q. How much do you get by truck?

A. Well, not a great big amount of merchandise we get by truck, except what we get,—what merchandise we get out of Tampa.

Q. Most of it is inbound by Seaboard?

[fol. 1563] A. By railroad. In our particular kind of business, why Tampa does not offer very much market for our kind of merchandise, and we have to go out of the State to get it.

Q. Where does your freight originate at?

A. Start from?

Q. Yes.

Q. New York State.

Q. Out of New York State?

A. Yes, sir.

Q. And when freight comes into you by the Seaboard, how is it delivered at your place of business?

A. How?

Q. Yes.

A. By truck.

Q. Is that being done now?

A. Yes, sir; comes from the freight house to the store by truck.

Q. Whose truck is that?

A. Now the truck belongs to a transfer firm right there in town.

Mr. Oven: I will prove that by our agent.

Mr. Watkins: I wish you would hurry up.

A. But the railroad delivers the freight.

Mr. Watkins: That is all I have right now.

By Mr. Allison:

Q. Mr. McRae have you ever compared the charge in [fol. 1564] transit of your freight from its point of origin to your town of Sebring by all rail and by rail and truck where it comes in on truck lines or some other line?

A. No, sir?

Q. Then you don't know whether we might not get there ahead of the other one, under the existing service?

A. I know the thing we figure on is the freight rate it is going to cost, and the most direct routes and the quickest routes. And I am not a freight man, an- that is usually up to the other fellow that is doing the shipping.

Q. How frequently do you specify a routing on your orders going to the north? That is, when you place an order for a bill of goods, do you tell them how you want them to ship it, over what railroad over what line?

A. No..

Q. Do you ever do that?

A. Well, once in a while yes, but most of the time I don't.

Q. Most of the time you don't. Have you ever compared to see what kind of a rate you would get by water to the p-rt of Tampa an*f* then by truck to Sebring?

A. No, they have men for that purpose that are much better equipped than I am.

Q. You are interested in saving transportation costs?

A. Yes, sir.

Q. Have you ever checked that to see whether you could [fol. 1565] save anything over bringing it in——

A. I haven't personally; but as I say, the firms that ship this merchandise, have men for that purpose, and they are much better posted with those rates than I am.

Q. Then you buy your merchandise with the freight prepaid since they are the ones interested in it?

A. Not prepaid, but they do the routing; I don't see it makes any difference who pays the freight; it wouldn't have any bearing on the routing of it.

Q. Have you ever investigated the schedules of the truck lines running into Sebring to see what service they offer now?

A. In what way do you mean?

Q. The schedules that have filed with the railroad commission showing the times they leave Tampa, for example

and arrive in Sebring, during the day? Have you checked that to find out what service they are offering?

A. The only freight we ever get by freight is merchandise we get out of Tampa.

Q. Do you have to pay for the delivery of this merchandise from the rail depot to your store?

A. No, sir.

Mr. Allison: That is all.

Redirect examination.

By Mr. Oven.

Q. Do you get goods from any other place than New York, outside of the State?

[fol. 1566] A. Outside of the State, *ih* yes.

Q. What other places?

A. Merchandise out of Baltimore, and—well, there is no specific place; where we happen to run into merchandise that suits our requirements why that is it.

Q. Does any of it come in now by truck lines, to amount to anything?

A. Not the out of state stuff.

Q. All comes by rail?

A. Yes, sir.

Q. Have you been patronizing the Seaboard—had you been patronizing the Seaboard prior to the operation if this truck line to Seabring?

A. Yes, sir.

Q. For how long?

A. Ever since I have been in Sebring.

Q. Since you have been in business?

A. Yes, sir.

Mr. Oven: That is all; thank you.

(Witness excused.)

Mr. Oven: Just for the purpose of clarifying the situation, I will put this witness on the stand and show what the schedule is going to say.

Mr. R. M. Lewis, was sworn and testified as follows:

[fol. 1567] Direct examination.

By Mr. Oven:

Q. State your name please.
A. R. M. Lewis.
Q. Where do you reside, Mr. Lewis?
A. Tampa, Florida.
Q. What is your business or occupation?
A. Freight agent, Seaboard Air Lines.
Q. For Tampa?
A. Yes, sir.
Q. How long have you been such?
A. You mean at Tampa?
Q. Yes, sir.
A. About four and a half years.
Q. Are you familiar with the operation of the Seaboard Air Line Railway into Tampa? And then across state to Sebring?
A. Yes, sir.
Q. It is contended here by witnesses that the granting of this application, permitting the Seaboard to handle its L. C. L. freight coming in, interstate, by trucks rather than by train, will amount to a saving of time. Will you please tell the Board how that works out and what saving it will be.
A. If my understanding is correct, the Seaboard Air Line has asked for this permit to handle interstate freight on this truck, as intrastate freight, in order to expedite the delivery of both classes of freight to the point of destination [fol. 1568] that these trucks serve; which is only stations that are served by the trains of the Seaboard Air Line Railway. We have two services out of Tampa. We have train service and truck service. Our transfer freight coming in from Chicago, Baltimore and New York is transferred the same day that it is received; it is loaded in the box car, goes to Bartow and Sebring and those places up there. We have a truck that leaves here at six o'clock at night; it is at Sebring at 1:10 the next morning. This freight is placed in the various stations, intrastate freight is placed in the various stations anywhere from seven p. m. until one o'clock in the morning. It is there, ready for the dealer,

the next day. We deliver freight *freight* to our patrons who require that. They elect to pick it up themselves, why then we allow five cents for picking it up. This freight that moves by train gets in there by around noon, whereas out truck is there by 1:10 in the morning; that is at the last station which is Sebring. It is what you were speaking about just now, isn't it?

Mr. Watkins: What is your train schedule?

A. Well, I can't testify to that; I will have to get a trainmaster to do that, because I can't tell you the arrival,—exact time of arrival of those trains at destination; it is all different. However, this train goes to Bartow, gets there around eleven or twelve o'clock the next day.

Mr. Watkins: Well, is there more than one train that [fol. 1569] serves this territory?

A. No, sir.

Mr. Watkins: It is all served by one train?

A. Yes, sir; that is right.

By Mr. Oven:

Q. Now, what advantage is there, so far as time goes, in moving this interstate freight by truck as wished by moving it by train, from Tampa on over?

Mr. Awtkins: Mr. Chairman, the gentleman has just stated he doesn't know what the train schedule is. How in the world can he testify about the saving in time?

Mr. Oven: He can testify as to what advantage there is here on Tampa.

Mr. Watkins: He says he does not know what the train schedule was. I asked him that question.

Chairman Matthews: Mr. Lewis did state that he knew the departure time of the freight train going into that territory from Tampa.

A. Well, this train for Bartow leaves here around five or six o'clock in the morning, I don't know the exact schedule, but approximately that time.

Chairman Matthews: All right.

A. We have witnesses here that can testify as to the exact time of the departure and the exact time of arrival.

Mr. Watkins: That is all in the world I want, is to know something exact, around here, instead of ideas.

[fol. 1570] Mr. Oven: Well, how is freight now handled coming in from New York for Sebring, Winter Park, Avon Park, Lake Wales and Bartow?

A. Freight coming in from New York is loaded in a car; we are not permitted to put it on the truck.

Q. How does it get into Tampa?

A. Well, it comes in various ways. Some of it comes by boat, some of it comes by rail.

Q. Well, that which comes by rail, is it in a carload?

A. No, sir; it is in a package car; l. c. l. package car.

Q. That package car gets here about what time from the north?

A. Gets in any where from six o'clock in the morning until 10 o'clock.

Q. Then, if it is consigned to any of these points in the Ridge Section, it has got to be unloaded from the package car? And put in another package car going to Bartow, has it not?

A. Yes, sir.

Q. And that package car going to Bartow or Sebring would not leave until the next day?

A. That is right.

Q. On the other hand——

Mr. Watkins: Are you testifying, Judge, or asking questions?

[fol. 1571] Mr. Oven: I am asking questions.

Mr. Watkins: I am sorry, I couldn't believe it.

By Mr. Oven:

Q. Suppose you transferred that to the truck, when would it leave?

A. Leave here at six o'clock that night, same day of arrival.

Mr. Oven: Well, that is all for the present; thank you.

A. Do you all want to ask me any questions?

Mr. Watkins: Oh yes.

Cross-examination.

By Mr. Watkins:

Q. Now you stated that on intrastate freight, you move it on a truck, and on the interstate freight you move it by rail?

A. That is right.

Q. To these points. Well, now who determines whether that freight is intrastate or interstate?

A. We determine it by the way bill.

Q. Who? I am talking about names of the men personally.

A. It is done by clerks under my supervision.

Q. Clerks under your supervision?

A. Yes, sir.

Q. What other,—what are the salaries of those clerks?

Examiner Yardley: That is immaterial.

Mr. Watkins: I don't think so.

Examiner Yardley: Well, I think so.

Mr. Oven: What is the question?

[fol. 1572] Chairman Matthews: What are you undertaking to show?

Mr. Watkins: The Supreme Court of the United States has more trouble determining what interstate and intrastate freight is, than anybody I know of, and here we have got a few clerks that are trying to determine that, and divide the freight up as to whether it moves by rail or truck. I think it silly.

Examiner Yardley: The very fact that some of the cases have been taken to the Supreme Court, it doesn't make any difference a man makes, in determining whether a shipment if interstate or intrastate.

Mr. Watkins: Well, it is an indication of whether or not he is educated enough to determine it.

(Discussion off the record.)

A. It is classified by the waybill; that is proof enough. I can't see them all; we have handled several hundred way bills a day.

Q. How much freight moving out into this area is intrastate as against interstate?

A. Well, I would say about a—about 50-50 basis.

Q. Then in tons or pounds, or dollars and cents, how much freight moves to the points involved in this application daily, monthly, weekly, any other period of time?

A. You mean both by rail and truck?

Q. By each, divided; I want it divided.

A. Well, for the first six months,—for the past six months [fol. 1573] of 1938, we handled Tampa proper, some 137,134 pounds.

Q. You mean, to Tampa?

A. No, sir; from Tampa. I am dividing it as between inter- and intrastate.

Q. That was just to the points involved in this application?

A. That is correct, yes, sir.

Q. That is what I wanted to get straight.

A. On the transfer freight, and that is interstate, 1048,390 pounds. We operated to that territory that was for a period of six months, 274 cars.

Q. How many trucks?

A. We operated trucks daily, once a day. This——

Q. Then you operated more cars than you did trucks?

A. Yes, sir. This truck could serve that same territory, and we wouldn't have to operate those cars. That is one of the reasons we are asking for the permit, is to expedite the freight and save car hire. Those cars cost us a dollar a day.

Q. Do you consider your present service out there as a losing service by truck?

A. Sir?

Q. Do you consider your present service by truck, to that territory, a losing service?

A. Yes, it is a losing service.

Q. And unless you get those interstate rights, you will continue to lose money out there operating a truck?

[fol. 1574] A. Well, we have just got two services out there, whereas we could consolidate them.

Q. Well, why are you operating intrastate if you are losing money on it?

A. Well, I don't know that the railroad is actually losing money on the operation of the trucks; I say, we are losing tonnage.

Q. Losing tonnage, but not money. Who are you losing that tonnage to?

A. Well, we are losing tonnage to the car, because we have got duplicate service out there.

Q. Well, who gets the tonnage that you lose?

A. We get the tonnage in the car. I am not in position to testify as to who we lose any tonnage to.

Q. Well, do you think this is going the tonnage handled by the Seaboard?

A. I don't see any reason why it should not. It will certainly give our patrons better service than they are getting now. Let me illustrate that for you.

Q. Go right ahead, as long as you want to.

A. We have got a man over here in Bartow, we will say, Bill Smith Hardware Store. We send him a shipment over by truck, and it is ready for delivery at eight o'clock in the morning. He may be getting a shipment from Baltimore, Maryland, the same man. That gets in there around noon, [fol. 1575] and sometimes later. If that man is hauling his own freight, he has got to come to our station for it to get the shipments, whereas if it was loaded on the truck, he would get all of his shipments at one time. We are asking for the permit for the convenience of our patrons and to expedite the movements of both intrastate and interstate freight.

Q. Does this truck that handled intrastate freight to these points, does it make pick-up and delivery at any of those towns?

A. No, sir.

Q. It only goes to the freight station?

A. Goes to the station.

Q. At how many of the points involved on this schedule you maintain pick-up and delivery service?

A. All of them.

Q. At all points; and what area?

A. What do you mean, at what area?

Q. In what area around Bartow, for instance?

A. Well, the tariff, I don't know how the tariff rate is for Bartow, it is within the city limits.

Q. Is that true of all these points?

A. As far as I know, yes sir.

Q. Within the city limits?

A. Yes, sir.

Q. And that is all down by different trucks?

[fol. 1576] A. Yes, sir; that is done by contract trucks?

Q. And you do not contemplate using this truck that is going to handle the freight from Tampa, in picking or delivering at any of these points?

A. No, sir.

Q. Does the Seaboard Air Line Railway interchange with any truck line?

A. No, sir.

Q. Have you ever approached the truck lines for that purpose?

A. Well, I say we don't interchange: we may have shipment coming in here by truck line that is going to some local station on their line; I will correct that. We do have some business with the truck lines; yes sir; that is some points they don't serve, why then they give it to the railroads.

Q. Have you ever given the truck lines any business to points that you didn't serve?

A. Yes, sir; we have.

Q. You have?

A. Yes, sir.

Q. And that interchange has been satisfactory?

A. As far as I know yes sir.

Q. Do you know anything about the service of the truck lines between here and these points?

A. I do not.

Q. You have never investigated that?

[fol. 1577] A. No, sir.

Q. Have you got any information concerning the cost of operating this truck?

A. I haven't. We have a witness.

Mr. Oven: That will be furnished later; we wan't do it all at once.

Mr. Watkins: I realize that; we have a long, hard pull ahead of us.

Chairman Matthews: Are there any other questions?

By Mr. Watkins:

Q. I want to get something straight in my mind: does the same train out of Tampa serve Auberndale, that serves Bartow?

A. I am not positive about that. We have a witness here that can testify to that for you. We have a train master that has a schedule of the trains; if you will ask him that question he will be more accurate.

Q. Thank you, Mr. Lewis; I was just interested, because this map does not look right to me.

A. I can testify to the schedules approximately, but I don't know the exact schedule.

By Mr. Allison:

Q. Mr. Lewis, I understood you to state that if a man in Bartow, for example, had a shipment of intrastate freight and a shipment of interstate freight arriving the same day, under your present method he would have to make two trips to the depot to pick up his two shipments?

[fol. 1578] A. Yes, sir.

Q. If he has his place of business within the corporate limits of Bartow, wouldn't you deliver those shipments to him?

Examiner Yardley: He said, if he wanted to haul it himself.

A. That is up to the consignee to choose which way he wants it. We will deliver it for him or he can come after it. I would like to state just a little further here; you take, for instance, a shipment moving out of Tampa, that we get on a Friday; we haven't train service out of here on Friday, to this section; but we do have a train out of here Saturday, which does not get over there until Sunday. That freight is delayed until Monday morning. We have truck service out of here on Friday, and if we could put this interstate freight on the truck it would expedite it three days, instead of 48 hours.

Q. Is that the only day you don't have a train?

A. During the week, yes sir.

By Mr. Watkins:

Q. Mr. Lewis, do you know whether or not you operate any other place outside of Florida?

A. Outside of Florida—no, sir; I do not.

Q. Will anybody be on the witness stand that can testify to that?

Mr. Oven: I don't know as there will. I am willing to admit in the record that there are certain operations outside of Florida; not a connected operation.

Mr. Watkins: All right; as long as we can stipulate it, [fol. 1579] Judge, it will be all right; I wanted the record to show it.

(Witness excused.)

MR. J. G. LEVERETTE was sworn and testified as follows:

Direct examination.

By Mr. Oven:

Q. State your name please.
A. J. G. Leverette.
Q. Where do you reside, Mr. Leverette?
A. Sebring, Florida.
Q. What is your business or occupation?
A. Station agent for the Seaboard.
Q. How long have you occupied that position?
A. Almost eleven years.
Q. You are familiar in a general way with the purpose of this application pending here now before this Board, wherein the Seaboard seeks a certificate from the Interstate Commerce Commission to handle, as between Tampa, and Sebring and intermediate points, interstate freight, are you not?
A. Yes, sir.
Q. Are you familiar with the arrival of the trains into Sebring, from Tampa?
A. Yes, sir.
Q. When does the train arrive there?
A. This freight comes into Sebring—to West Lake Wales on the regular train; it is set out there and comes to Sebring [fol. 1580] on a switching, leaving West Lake Wales anywhere from five p. m. to seven p. m. arriving at Sebring anywhere from six thirty to ten thirty.
Q. P. M.?
A. Yes, sir.
Q. Would the handling of that same less than carload freight by the truck, from Tampa, expedite the service into Sebring?
A. Yes, sir.
Q. To what extent?
A. Well, the freight that leaves Tampa this afternoon, when our train leaves—If it could come on the bus, it would

be there at one o'clock in the morning for delivery tomorrow morning.

Q. You said, bus, you mean truck?

A. I meant truck?

Q. Proceed now.

A. If it could come over on the truck, we would deliver it at eight o'clock in the morning, whereas if it comes on the train, we will get it tomorrow evening some time and deliver it the next morning around eight o'clock.

Q. Do you feel that that would be a convenience to shippers, a necessity to them, to expedite that service?

A. Yes, sir.

Q. Have any of them said they would like to have it, as far as you know?

[fol. 1581] A. All that I have discussed it with, yes sir.

Q. You only have one daily freight service in Sebring by rail?

A. That is right.

Q. And one daily intrastate truck service, by truck?

A. That is right.

Q. Both operated by Seaboard?

A. Yes, sir.

Q. Now do you have any outgoing business by truck or train?

A. By both, yes sir.

Q. L. C. L.?

A. Yes sir.

Q. Interstate or intrastate?

A. Both. If we could send the Interstate freight on the truck it would certainly facilitate the handling of the carload freight at Sebring, because of the facilities there.

Q. Have you pick-up and delivery service to Sebring?

A. Yes, sir.

Q. Do you also give the consignees the option of hauling their own goods at a reduced price—allowance for that purpose?

A. Yes, sir; we make an allowance for that purpose, to those who want to avail themselves of it.

Q. Now, if a shipment got in by truck from Tampa, direct, shipped from Tampa, in the morning, and an interstate shipment got into Sebring at noon, or in the after-

[fol. 1582] noon, the merchant would have to make two trips to the depot to get all that stuff, if he was handling it himself, would he not?

A. Yes, sir; but the shipment wouldn't get—the interstate shipment wouldn't get to Sebring in the afternoon; it would be in the evening, and delivery could be made not earlier than the next morning.

Q. When would it get there by truck? At night?

A. At 1:10 p. m.

Mr. Oven: That is all.

Cross-examination.

By Mr. Allison:

Q. Mr. Leverette, this consignee wouldn't have to make two trips, he could wait and pick it all up after the interstate shipment arrived, couldn't he?

A. Yes, sir; he could pick it up once a week.

Q. So there wouldn't be any compulsion for him to make two trips a day unless he just wanted to?

A. No.

Q. You have been in Sebring eleven years?

A. Yes, sir.

Q. With the Seaboard Air Line?

A. Yes, sir.

Q. Do you know of any reason why this scheme was not proposed before this date, if it was valuable to the public?

A. I don't know, really don't.

Q. These truck lines have been operating down there since [fol. 1583] shortly after the boom, 1925, haven't they?

A. Yes, sir.

Mr. Allison: That is all.

A. I won't say, 1925; I wasn't there then.

Q. I say, shortly after that time?

A. I went there in '28.

Q. They were there operating, when you arrived?

A. I found them there, yes sir.

Mr. Oven: Found the railroad there also, didn't you?

A. Yes, sir.

Mr. Oven: That is all, Mr. Leverette.

By Mr. Watkins:

Q. I would like to ask a couple of questions. How much freight, l.t.l. originates at Sebring?

A. Very little.

Q. Very little. Do you know how it is divided between inter and intrastate traffic?

A. Well, most of it is interstate.

Q. Interstate?

A. Yes, sir.

Q. What is the nature of it? Mr. Leverette.

A. Well, you know Sebring is a tourist town; these people drive down there in their cars and ship their stuff,—canned goods and dried beef and potatoes from up in New York State; and when they start back, they ship blankets and things like that; and we have a lot of that stuff.

[fol. 1584] Chairman Matthews: I think you inquired about l.t.l.; you mean l.c.l., don't you?

A. You are talking to a railroad man.

Mr. Watkins: Well, I prefer to call it l.t.l. Judge.

A. Well, I inferred that you meant l.c.l.

Examiner Yardley: Thank you sir; that is all. Next witness.

Redirect examination.

By Mr. Oven:

Q. Mr. Leverette, have you caused to be prepared a statement for the month of October, November and December, 1938 of interstate freight received at Tampa, on a package car, all rail movement, Tampa-Sebring package car?

A. Yes, sir; I believe Mr. Peterman has that.

Q. Is this the original of that?

A. That's it.

Q. Are these typed copies?

A. I got it out in a hurry and just mailed statements——

Examiner Yardley: Just answer the question.

A. Yes, sir; that seems to be it.

Mr. Oven: We offer that in evidence, as Exhibit No. 2.

Recross-examination.

By Mr. Allison:

Q. Mr. Leverette this statement covers October, November and December, 1938. I believe you stated that Sebring was a tourist town?

A. Yes, sir.

[fol. 1585] Q. The population there is large- increased during the winter months, over the summer months, is that not correct?

A. Yes, sir.

Q. Then what proportion does this statement bear to what might appear for the months from April first through September 30th? In other words, would,—the movement would be considerably less during those months, would it not?

A. Yes, I guess it would, on the outbound business.

Q. Have you attempted to strike an average for the year of 1938, for the average month?

A. No, sir.

Q. Now, in what proportion would you say that these three months you have selected, are larger than the three preceding months? July, August and September?

A. That is inbound business. We weren't discussing outbound business; that is inbound. Well, there are more people,——

Q. There are more people there during the winter months, to receive freight coming inbound, than there are during the rest of the months; isn't that correct?

A. I wouldn't say that. We have chemicals for fertilizer; fertilizer complete; we have farm implements.

Q. You are speaking about carload, or less carload?

A. Less carload.

Q. The point in what I am getting at, Mr. Leverette, is simply this: Does your inbound business contain ratio [fol. 1586] throughout the year, or doesn't it fluctuate?

A. It fluctuates, yes, sir.

Q. Then it would be more in the winter than in the summer?

A. Yes, sir.

By Mr. Bliss:

Q. Mr. Leverette, will you explain these shipments shown as being handled with no revenue?

A. Prepaid.

Q. Then you claim—well now——.

A. The young man that made it, went along the same principales as that we make up our freight shipments; he put down what affect my account there, and left the prepaid shipments out.

Q. Well, then that column reading Revenue, should read "Total collect," shouldn't it?

A. Yes, that should mean the collect freight.

Q. And in a case of a shipment to Chicago, you are including in there all the charges from Chicago to Sebring?

A. All of the earnings, yes sir.

Q. Probably—you wanted to make that correction in this exhibit?

A. Yes, I would like to have it understood that those—dashes there represent that the freight has been prepaid on the shipment.

Q. Well, you can simply change the entire column to read, "Collect charges."

Mr. Oven: This column shows revenue collected at Sebring [fol. 1587] is that right?

A. That is revenue collected at Sebring.

By Mr. Bliss:

Q. That includes the revenue of connecting lines as well?

A. Yes, sir; every carrier is included in that.

Q. I see no shipments on this sheet from New York or Baltimore.

A. I instructed to leave those off,—all eastern business; going on the hypothesis that it would be transferred at Jacksonville.

Q. Well, is that how it is usually handled?

A. Well, a great deal of it is; and I wanted this statement to reflect as near as I could the actual conditions. You see, this is all western freight.

Examiner Yardley: I don't understand why you make that statement to Jacksonville. What happens at Jacksonville?

A. Well, there is a great deal of that stuff comes Clyde-Mallory to Jacksonville; a great deal of it comes ocean steamship company to Savannah.

Examiner Yardley: But nevertheless picked up by Seaboard at these points, isn't it?

A. Yes, sir.

Q. Mr. Leverette, you have a direct on the Seaboard from Jacksonville to Sebring, without going through Tampa, haven't you?

[fol. 1588] A. Yes, sir; and that is what I had in mind when I omitted eastern business.

Q. Is there a Jacksonville to Sebring package car?

A. Yes, sir.

Q. What schedule does that move on?

A. It arrives in Sebring at the same time as the package car from Tampa arrives, on the same train, late in the evening.

Mr. Bliss: Will you have a witness who will tell us about that train?

Mr. Oven: Yes. I think we will explain that.

By Mr. Watkins:

Q. I am going to be bawled up. Do you intend to handle any freight moving through Jacksonville on this proposed truck?

A. No, sir; that is the reason I let the eastern business out of it,—business that could move through Jacksonville transfer.

By Mr. Watkins:

Q. Then the only freight that you intend to handle on this truck, would be freight that is broken at Tampa?

A. I don't know just what the intention is.

Q. Well, that is what I am trying to get straight, as to what the intention is. I don't know either; I am just as much in the dark as you are, Mr. Leverette.

A. But I got that statement from Mr. Peterman. I didn't get it up myself, I had it gotten up. I was just [fol. 1589] recovering from a case of flu, and I instructed the young man to leave eastern business off of there; which you will notice eastern business has been left off there.

Q. And that is what I was trying to get at, whether this proposed truck service intends to handle any eastern business.

Examiner Yardley: Let's ask Judeg Oven or one of the officials of the company. How about that, Judge?

Mr. Oven: I will clear that up a little later, sir.

Examiner Yardley: Let's don't leave too much. Can you make a statement right now, whether it will or will not be?

Mr. Oven: As I understand it, eastern business comes down in one package car to Jacksonville, transferred there. The western business, and you might say intermediate points comes down in another package car to Tampa, and is transferred there to the Tampa-Sebring car. And that is the purpose of showing where all these shipments come from.

Mr. Watkins: You haven't answered my question exactly, yet, Judge. On shipments coming into Sebring, they move through Jacksonville, and they would be put in a car at Jacksonville for Sebring, and not to Tampa?

Mr. Oven: That is changed at Jacksonville. But that is,—if it is in a car that goes on to Tampa, it would have to be changed at Tampa. Everything the Seaboard handles down here from the north or the west, comes through Jacksonville. There is where you are confused.

[fol. 1590] Mr. Watkins: But there is some freight then that will move from Jacksonville, or through the point of Jacksonville, to Sebring, without ever going in this proposed truck service?

Mr. Oven: There may be, yes.

Mr. Watkins: Now, why would some be handled that way, and the other be handled through Tampa; I just can't see it.

Mr. Oven: Because of the fact that if a car goes on to Tampa, and you can't break bulk there, so to speak; whereas in the other instance, both,—bulk is broken at Jacksonville. When I say bulk,—it is a package car.

Examiner Yardley: Then you have a package car from Jacksonville set out at Sebring; there is no use for the truck line at that point.

Mr. Oven: As to that, the other comes rights on through to Tampa; that is what we want to save time on. To use a technical term, certain package cars are billed on Tampa, other package cars are billed on Jacksonville; that is what causes the difference.

By Mr. Allison:

Q. May I ask the witness: Mr. Leverette, do you know the route that this truck will follow from Tampa to Sebring, with reference to the town of Auburndale?

Examiner Yardley: Now, gentlemen, this witness here was called to show, as I understand it, the necessity for the operation at Sebring. Is that correct, Judge?

Mr. Oven: Yes, sir.

[fol. 1591] Examiner Yardley: So any operation conditions and so forth we may leave to the traffic manager or some official.

Mr. Allison: Are you going to have him here?

Mr. Oven: Yes, sir; the schedule shows.

(Witness excused.)

Mr. Oven: The three witnesses from Sebring will be excused.

Mr. A. O. Kinsey was sworn and testified as follows:

Direct examination.

By Mr. Oven:

Q. State your name, please.

A. A. O. Kinsey.

Q. Where do you reside?

A. Avon Park, Florida.

Q. What is your business or occupation?

A. Station Agent.

Q. What kind?

A. Seaboard Air Line.

Q. How long have you occupied that position?

A. 14 years.

Q. Are you familiar with the present intrastate truck service from Tampa to Sebring?

A. Yes, sir.

Q. When does the truck reach Avon Park?

A. Around twelve o'clock.

Q. Daytime or at night?

[fol. 1592] A. At night, midnight.

Q. Do you know when that leaves Tampa?

A. No; I understand, six o'clock.

Q. When does the freight train, or package car get to Avon Park from Tampa?

A. Around five-thirty to six o'clock.

Q. Morning or afternoon?

A. Afternoon.

Q. In the afternoon?

A. Five thirty to seven thirty p. m.

Q. Have you prepared a statement of intrastate shipments? You have not, have you?

A. No, sir.

Q. Would the permitting of this truck service to handle interstate freight which goes into Tampa by package car, be a convenience to the merchant in your town?

A. Yes, sir; it would be a saving of 24 hours.

Q. 24 hours?

A. Yes, sir.

Q. Do you find that they desire it?

A. Yes, sir; all—I have mentioned it to some of them, they are interested in it and would like to have it. I think the stuff that comes in the box car, comes in there I will say around six o'clock.

Q. In the afternoon?

[fol. 1593] A. Six p. m.; if that same shipment was moved by truck line, why it would have been there just 24 hours—been there at midnight and delivered the morning before,—24 hours sooner. We have a shipment in the warehouse Saturday night, by our train, that was loaded at Tampa Friday night, we got it Saturday night. If that shipment could have moved—it from St. Louis; if it could have moved on to us Friday night, we would have delivered it Saturday morning.

Q. By your truck?

A. If it came in on our truck Friday with some other stuff that came in from Tampa, we would have delivered it Saturday morning; but that shipment had to be delivered this morning at eight o'clock, 48 hours later than it would have been if it had been moved into Avon Park Friday night.

Q. Do you have pick-up and delivery service at Avon Park?

A. Yes, sir.

Q. Do you allow a rebate to those who haul their own goods?

A. Yes, sir.

Mr. Oven: Take the witness.

Cross-examination.

By Mr. Watkins:

Q. What happened to that package car for 24 hours that got lost? You said it started out Friday night and got in Saturday night?

A. 24 hours, our stuff loaded at Tampa Friday night, [fol. 1594] we don't get it until Saturday night.

Q. Where does it go?

A. I couldn't tell you.

Q. You don't know what happens to the box car in the mean time?

A. Moves in train service to West Lake Wales, then it is picked up and handed to Avon Park.

Q. How long does it take to get to West Lake Wales?

A. I couldn't tell you; I haven't checked the schedule.

Q. You don't know what happens to the car in the meantime?

Mr. Oven: In putting the original question to you, the gentlemen knows the freight train doesn't leave until the next morning, although it is loaded the night before.

Mr. Watkins: You testify, Judge, and tell us all about it. I want the record to show what happens to it.

Q. How does freight from Jacksonville to Avon Park, move?

A. In box car.

Q. Well, over what route?

A. Seaboard.

Q. Through Tampa?

A. No, sir.

Q. Well, through what point?

A. Direct through Jacksonville to Tampa, down through Ocala.

Q. From Jacksonville——

A. West Lake Wales and into Avon Park.

[fol. 1595] Q. In other words, freight from Jacksonville to Avon Park would move down to the line of the Seaboard through Wildwood?

A. That is right.

Q. And Lakeland?

A. No, sir; Not Lakeland; through Wildwood, Coleman, Winter Haven, West Lake, and Avon Park.

Q. And wouldn't go through Tampa?

A. No, not necessarily.

Q. So then freight from the east that was brought into Jacksonville would get to Avon Park over that route we have just described?

A. If it was loaded on Jacksonville?

Q. Well, I suppose it would be loaded that way, I don't know. You mean it might run some other route through Tampa?

A. There is probably package cars that are loaded at different points. I don't have that information—through Tampa, loaded on Tampa.

Q. You mean then there would be some freight from Jacksonville to Avon Park, that moved through Tampa?

A. I haven't had any.

Q. You don't think it would do that?

A. No.

Q. Is there truck service from Jacksonville to Tampa? by the Seaboard?

A. No.

[fol. 1596] Q. They don't have any through truck service?

A. No.

Q. What through truck service have you got? Do you know?

A. From Tampa to Avon Park.

Q. What?

A. Tampa to Avon Park.

Q. That is the only one you know of?

A. Yes, sir.

Q. How much freight originates at Avon Park going outside of the State of Florida?

A. We don't have—I would say, a small amount.

Chairman Matthews: You are speaking about l. c. l.?

Q. That is right, l. c. l.

A. Small amounts.

Chairman Matthews: At great deal of freight originaes there in car lots?

A. Yes, sir; plenty.

Q. I am talking about l. c. l.

A. L. c. l., that is what I am talking about.

Q. And about how much comes inbound? have you got any? Have you got any extimate at all, like this gentleman from Sebring gave us? Have you made any check similar to that?

A. No, I didn't make that up.

Q. And you have got no idea. How does Avon Park compare with Sebring, is it as big a station, or larger, or what?

[fol. 1597] A. I imagine about the same.

Mr. Watkins: That is all I have.

By Mr. Allison:

Q. Mr. Leveretts, how many common carrier truck lines at present are serving the town of Avon Park?

A. Three, I believe.

Q. What are they?

A. Central, St. John's and Hunt.

Q. Are you familiar with their schedules?

A. No, sir.

Q. This shipment you spoke of as being delayed in Tampa and not reaching the consignee until Monday, that was partly because you have no train on Friday, isn't that correct?

A. No; you see it just gets to where the stuff that moves through Tampa, is 24 hours, when that is put in a box car, we don't get it until the next afternoon, as I say, about six o'clock. But if it moves on this truck, it gets into Avon Park about midnight, and delivered the next morning about eight o'clock; which, if it moved in the box car it wouldn't get there until five or six o'clock too late for that day's delivery; which gives it 24 hours delay.

Q. You spoke of one shipment which was loaded in Tampa on Friday, didn't reach you until Saturday?

A. Saturday night.

Q. Delivered Monday?

A. That is right.

[fol. 1598] Q. When did that shipment arrive in Tampa, do you know?

A. I don't know that.

Q. Is there any practical reason why the Seaboard could not have turned that freight over to one of these truck lines and let them deliver it Saturday morning to the consignee in Avon Park?

A. Yes, sir; it was routed Seaboard.

Q. Routed Seaboard?

A. Yes, sir.

Q. But the public if they knew that they could make that interchange there, they would get their freight just as quick as by this proposed truck, wouldn't they?

A. Well, I don't know whether they would or not.

Examiner Yardley: You don't know what their services are, do you?

A. No, sir.

Examiner Yardley: All right, thank you sir, that is all. Next witness.

(Witness excused.)

Mr. I. T. Ford was sworn and testified as follows:

Direct examination.

By Mr. Oven:

Q. State your name please.

A. I. H. Ford.

Q. Where do you reside, Mr. Ford?

[fol. 1599] A. Avon Park, Florida.

Q. What is your business?

A. Well, I am Gulf Distributor, Chevrolet automobile dealer, a little of everything.

Q. Do you receive interstate freight in Avon Park?

A. Yes, sir.

Q. Do you receive any by rail?

A. Yes, sir.

Q. From where do you receive freight, Mr. Ford? Coming interstate?

A. Well, various places, one place and another; depends on where I buy. I buy from various concerns. It is mostly from Atlanta, Michigan; and as I say it just depends on where I buy the material.

Q. Does any of that come in by Seaboard Air Line Railway?

A. Yes, sir.

Q. Are you familiar with this application where they are seeking now to obtain to handle interstate freight by truck from Tampa to Avon Park?

A. All I know is what I have been told.

Q. Do you think that would be a convenience to your business?

A. Yes, sir.

Q. If the testimony here shows that it would amount to a saving of 24 hours, approximately on goods shipped from the west, or say Tennessee, anywhere out there, billed [fol. 1600] on Tampa would that be a convenience to you?

A. Yes, sir.

Q. Would it be a convenience to the other people there?

A. Yes, sir.

Q. Is there anyone else here with you from Avon Park?

A. No, sir.

Mr. Oven: Take the witness.

Cross-examination.

By Mr. Watkins:

Q. Do you receive any shipments by truck?

A. Yes, sir.

Q. Which lines?

A. I think all of them that come into Avon Park.

Q. How many are there?

A. Well, as I recall, there is about three.

Q. Do you mind naming them?

A. Hunt Truck Line is one of them. St. John's and Central, did come in.

Q. Is their service satisfactory?

A. Yes, sir.

Q. How does the majority of your freight move? Does it move by water into Tampa?

Examiner Yardley: You are speaking about small quantities less truckload?

Q. Yes, less than truckload freight.

A. No, very little freight that I receive, by water, as I [fol. 1601] know—as I recall.

Q. Do you get any shipments from Atlanta all the way by truck?

A. I believe I have had some.

Q. Is the service satisfactory?
A. Yes, sir.

By Mr. Allison:

Q. Mr. Ford, are your new cars, I believe you stated you are the Chevrolet dealer?
A. Yes, sir.
Q. Are your new cars all shipped from Flint or from some assembly point?
A. Well, most of them come from Atlanta.
Q. And do they come by rail, or do they come by——

Examiner Yardley: Well, they don't come less than carload?
A. No, sir.
Q. Do you get any by these contract caravans carriers?
A. No, sir.
Q. They all come by rail?
A. Yes, sir.
Q. What about the—you are the Gulf Oil distributor there?
A. Yes, sir.
Q. How is that gasoline sent in? by tank car? Or by boat to Tampa, or by truck to Avon Park?
A. Well, part of the time during the year it comes——

[fol. 1602] Examiner Yardley: Is that material to the disposition of this case? How that gets in,—how gasoline gets in?

Mr. Allison: It has some bearing on the witness' testimony as to the necessity of this service.

Examiner Yardley: Well, there aren't any of these truck lines hauling gasoline, are there?

Mr. Allison: Plenty of the companies; there are about three.

Examiner Yardley: Tank truck?

Chairman Matthews: Not in tank cars; none of the common carrier truck lines.

Mr. Watkins: Contract carriers, Judge.

Chairman Matthews: And the common carriers haul in drums.

Mr. Watkins: That is right.

Examiner Yardley: Go ahead and answer the question.

By Mr. Allison:

Q. The question is, some of this gas comes to Tampa by boat and some by contract truck is delivere- to Avon Park? Isn't that right?

A. Yes.

Q. Just roughly what proportion comes in by rail tank cars; and what proportion comes the other way?

A. Well, in summer time all comes by truck, for about two or three months, but the company does it themselves. I would say outside of two or three dull months we have, it comes by rail—all except what comes in drums lots, which [fol. 1603] is oil and various quantities that wouldn't be large enough to ship by tank car.

Q. Do you know how many daily schedules these three truck lines have now? In and out of Avon Park?

A. Do I know what?

Q. How many schedules they have, per day.

A. Well, as I understand it, they all come in in the morning—or some time from seven thirty on; I don't know exactly their schedules.

Examiner Yardley: I think we can doubtless save some time, you are doubtless going to put that on by your own witness. He has testified the truck service was satisfactory; I don't know what more you want.

Mr. Allison: May it please the Commission, it occurs to me that it always has a bearing on the question of public convenience and necessity, if the witness was well informed enough to know what services are available. If they are not familiar with the services now available, then their testimony is subject to comment, because their judgment on public convenience and necessity is affected accordingly.

Examiner Yardley: He has testified three truck lines operated into the city.

Mr. Bliss: And that the service is satisfactory; that is all you want.

Chairman Matthews: Mr. Allison asked if he knew how many each of them had per day, the schedule: if you can answer it.

[fol. 1604] A. One schedule each day; one truck each day, as I understand it.

Mr. Allison: That is all.

(Witness excused.)

(Brief informal recess was had at 11:35.)

Mr. H. J. Ellis was sworn and testified as follows:

Direct examination.

By Mr. Oven:

Q. State your name, Mr. Ellis.
A. H. J. Ellis.
Q. Where do you reside?
A. Lake Wales.
Q. In what business are you engaged, if any?
A. Truck business.
Q. How long have you been engaged in that business at Lake Wales?
A. 16 years.
Q. Do you have occasion to receive interstate shipments by Seaboard Air Line into Lake Wales?
A. I do.
Q. Do you know how they are routed or do you not?
A. Well, the only shipments we get that way is over the Seaboard into Tampa, and pick-up trucks into Lake Wales.
Q. Shipped into Tampa and then transferred?
A. Yes.
[fol. 1605] Q. Do you get it in less carloads or by train?
A. Truck.
Q. You don't get any interstate shipments there that way, do you?
A. You mean, truck?
Q. Yes.
A. It is my opinion that I have had shipments that way; not through the Seaboard.
Q. Not through the Seaboard?
A. No.
Q. Well, now as to the freight assigned to the Seaboard, how do you get that?
A. When it is consigned to the Seaboard?
Q. Yes, sir; turned over to the Seaboard for delivery to you?

A. Well, we have had it both ways. Up until some time ago our freight came by rail; and whenever they put on their service, then we gave them permission to have it come that way.

Q. Well, you don't have any shipments from outside of the State by this truck do you?

A. No.

Q. You do get it by rail?

A. Yes, sir.

Q. All rail into Lake Wales?

A. Yes, sir.

Q. Do you know the purpose of this application here of [fol. 1606] the Seaboard, asking authority to handle Interstate shipments along this line on this truck?

A. I am, I think I am clear on that.

Q. Would that be a convenience to you?

A. Yes, we get shipments from Chicago once and twice a month, which I think through their service would speed up our getting the goods quicker.

Q. Well, is speed necessary to your business?

A. Well, I think so.

Q. Would it affect others in Lake Wales, likewise?

A. Well, it is my opinion it would affect anybody, that, if they want the merchandise, and of course we are all anxious to get our merchandise when we buy it.

Q. You of course have all truck service through Lake Wales do you not, too?

A. Oh yes.

Q. Competing truck lines?

A. Yes.

Q. How long have you been dealing with the Seaboard Air Line as a carrier?

A. As a carrier—probably—you mean the railroad company?

Q. Yes, sir.

A. Oh, since it has been there, ever since I have been in town.

Q. Outside of this delay, you find the service satisfactory?

A. You mean, the Seaboard Railroad Company service?

[fol. 1607] Q. Yes, sir.

A. Yes.

Q. Would you like to see this application granted so that stuff could be transferred from the package car at Tampa, to the truck, and reach Lake Wales earlier?

A. I think I would.

Q. How much earlier do you think that would reach you?

A. That I couldn't say exactly; I am not altogether clear. Of course I know that we have had awfully good service. Now don't misunderstand me, we have had service from all of them; all give us service. But the Seaboard Air Line Railroad Company—I mean the pick-up trucks have given us very good service. Now, as to their schedules, when they come in, when the merchandise is received in the,—I don't know anything about when it comes to Tampa. But I do know that there their service has been very good.

Q. Well, now if it gets in there by package car at night, you don't get — until the next morning, do you?

A. I don't know; I don't get it until the next day.

Q. And if the freight got into Tampa this afternoon, was loaded on the truck tonight, you would get it in the morning?

Mr. Watkins: Now wait a minute: Mr. Chairman, this gentleman has testified he didn't know anything about when the freight arrived at or left Tampa; and he has testified that the service was good, and I believe that is as far as he [fol. 1608] can go. Now the Judge is attempting to go on and put the words in his mouth, which he has already stated he knew nothing about.

Mr. Oven: I am asking him if that was the case; and I propose to prove by other witnesses that such is the case.

Chairman Matthews: I think he can answer the question as the Judge put it, in proper form.

Mr. Oven: Read it to him, Mr. Reporter.

(The question was read.)

A. At Nine o'clock.

Examiner Yardley: He wouldn't know whether he would get it in the morning or not, Judge.

Mr. Watkins: That is the point I was arguing.

By Mr. Oven:

Q. Do you know when the truck gets in there sometimes from Tampa?

A. Gets in there at eight o'clock, and we get our freight between eight and nine.

Q. Eight in the morning?

A. I do not know when the truck gets there. I know—the truck gets to Lake Wales at night, it is put into the Sea-

board depot, and their trucks deliver it to us next morning; I do know that.

Q. The pick-up and delivery truck delivers to you the next morning?

A. Yes.

Q. The Seaboard truck from Tampa gets in some time [fol. 1609] during the night?

A. During the night.

Q. Now, if the freight comes in a package car: When does that reach Lake Wales?

A. If it comes in a package car?

Q. Yes, sir.

A. I couldn't tell you.

Q. You don't know when that gets there?

A. No. You mean, comes in a package car to Lake Wales?

Q. Yes, from Tampa?

A. No, I don't know; I don't know how long it takes a freight car to get out there; I couldn't tell you that.

Q. Well, now assuming for the sake of argument that it,—the shipment, interstate reaches Tampa one afternoon, or during the day and had to be transferred to package car that left Tampa the next morning and did not reach Lake Wales until noon of that day; would that be as convenient and necessary to you, as if the shipment reached the,—Tampa in the afternoon and was loaded in the truck and reached Lake Wales in the night and was delivered to you the next morning?

A. Well, it is always much more convenient for us to get our freight in the morning than it is in the afternoon. Now here is what I mean by that; lots of times we get freight by truck lines, that deliver to us at night, see, I don't say they are responsible for that, but many times it does come in, [fol. 1610] and we unload freight there after night, from the truck. You see what I mean. I don't — when they get it, it may not be their fault, see. We have had mighty good service from all truck lines, and it is my opinion that most of the trucks will give it to you as quick as they can. But it — more convenient for us to have freight delivered in the morning than it is in the afternoon or night.

Q. No matter who delivers it?

A. Yes.

Mr. Oven: All right, take the witness.

Cross-examination.

By Mr. Allison:

Q. Mr. Willis you speak of freight being unloaded at night by the truck line. Is that the same freight which was ordered by,—ordered from Tampa, that same day?

A. No, we never get any freight from Tampa that is loaded—that I buy—if I buy merchandise this morning, I never get it that day by freight or truck or any other way.

Q. Are you familiar with the schedules which the truck companies have, running into Lake Wales now?

A. Well, I am not altogether familiar. The Seaboard pick-up truck comes in there every morning. The Hunt Lines come in there twice a day. The Star Lines and Central Truck Lines, I see them sometime during the day, but when they get there I don't know.

Q. Dl you ever see the Great Southern Truck Line there?

A. Yes, I think I have.

Q. You don't know though when they are supposed to [fol. 1611] arrive and depart?

A. No, I do not.

Q. Are you aware that some of those truck lines, either direct or by connecting carriers, run on up through Atlanta towards the west,—to Chicago?

A. I understand they do.

Q. So that you could get an interstate shipment by truck over that route?

A. I am not positive, but I think I have had shipments from Atlanta by truck. And I believe I could show you some freight bills, see?

Q. Now, Mr. Ellis, when you place your orders, do you specify how you want your merchandise shipped?

A. Yes.

Q. You do?

A. Yes.

Q. And you specify the Seaboard?

A. Yes, sir.

Q. This same truck that runs from Tampa to Lake Wales, that is the Seaboard truck, that is not the same truck that delivers your merchandise to you, is it?

A. From Tampa, to Lake Wales?

Q. Yes, sir.

A. You mean, the Seaboard truck?

Q. Yes.

[fol. 1612] A. Well, now, I imagine that is the same truck that delivers the freight in Lake Wales; but they never deliver any freight to me.

Q. But it is delivered by the Seaboard pick-up truck, from the depot. That is not the truck that runs over the highway from Tampa to Lake Wales, but it is a pick-up truck in Lake Wales?

A. Yes, sir.

Mr. Oven: You haven't tripped anybody yet.

Mr. Allison: I don't appreciate that, Judge, I am trying to develop the facts.

Mr. Watkins: I would rather have it this way, Judge.

Mr. Allison: This is my play.

Q. Then the real good service that you are getting, is this pick up truck that they just promoted delivery of that merchandise from the Seaboard Warehouse direct to your place of business.

A. That is right.

Mr. Allison: That is all.

Mr. Oven: Mr. Ellis, that is all.

(Witness excused.)

Mr. R. B. Scarborough was sworn and testified as follows:

Direct examination.

By Mr. Oven:

Q. State your name please.

A. R. B. Scarborough.

[fol. 1613] Q. And where do you reside?

A. Lake Wales, Florida.

Q. What is your business or occupation?

A. Freight agent.

Q. What company?

A. Seaboard Air Line Railway.

Q. Have you as such agent, prepared *to* caused to be prepared from your records, a statement for October, November and December, 1938, of interstate freight re-

ceived at Lake Wales, Florida? In package car, all rail movement in Tampa, Sebring package car?

A. I have prepared a statement on shipments delayed through Tampa.

Q. Shipments delayed?

A. Yes, sir; that is it there.

Mr. Watkins: Is that all the shipments?

A. Shipment delayed, yes sir; from the Tampa interchange. In other words, all the freight moved through Tampa is interchange.

Q. I know that. But does this statement represent all of the freight which moved, or just that which was delayed?

A. Just the freight that moved through Tampa. You see we have a Jacksonville Package car as well as a Tampa package car, see? And this is delayed twice through the Tampa——

Q. Well, does that statement comprise all of the movements all of the shipments, from or through Tampa?

[fol. 1614] A. Yes, sir.

Q. To Lake Wales?

A. That's right.

Q. All right, that was prepared under your supervision and direction was it?

A. Yes, sir.

Mr. Oven: We offer that in evidence as Exhibit No. 3.

Q. When does the package car operated by rail service, reach Lake Wales from Tampa?

A. From five to six p. m.

Q. When does it leave Tampa, do you know?

A. During the early morning some time.

Q. When does the truck that handles intrastate freight from Tampa to Sebring—Tampa to Lake Wales, reach Lake Wales?

A. Oh, around 10 o'clock at night.

Q. 10 o'clock at night?

A. Yes, sir.

Q. If the Seaboard is permitted to handle by this truck, the freight movement moved into Tampa by package car, and then Tampa-Sebring package car, would that expedite that service, and if so, to what extent?

A. 24 hours at least.

Q. 24 hours at least?

A. Yes, sir.

Q. Have you discussed this matter with the citizens—[fol. 1615] shippers there in Lake Wales?

Mr. Watkins: Mr. Chairman, I haven't objected to that line of questioning before because I thought the Judge would finally get over it. But that of course is hearsay and is not admissable in evidence, as to what he has discussed with other people.

Mr. Oven: Well, I will withdraw that question. Have you made any survey of the merchants in Lake Wales for the purpose of determining whether or not this service would benefit them?

Mr. Watkins: Now before you answer that question,—I think he ought to give the details of how he made the survey and so forth. If we are going into this, let's go into it right. I don't think we ought to do it.

(Discussion off the record.)

A. Yes, sir; I have.

Q. How did you make that survey, Mr. Scarborough?

A. Well, by questioning my customers you see, checking up on the truck service and comparing with mine. I find some cases they beat me, and naturally I would like to compete with them.

Q. You then have approached practically the,—practically all the receivers in that community?

A. Yes, sir.

Q. Well, from the investigation you made, the conversations you had with these various shippers, what did you find to be sentiment of the community with regard to this service?

[fol. 1616] A. Well, they all want it.

Mr. Oven: Take the witness.

Cross-examination.

By Mr. Watson:

Q. I believe you stated the bus service in there was better than the rail service,—the truck service?

A. In some cases.

Q. From what points?

A. Well, I find in some cases that freight from St. Louis, the trucks can beat us in there, see.

Q. That is all the way through by trucks from St. Louis?
A. Yes, that is right.
Q. And any other points?
A. Well, Louisville and St. Louis, up in that vicinity.
Q. Chicago?
A. No, I can't say about Chicago, but I have some particular business out in the other section.
Q. Have the rails got as good a service from Chicago as the trucks have?
A. Pardon?
Q. Have the rails got as good a service from Chicago, as the trucks?
A. No, sir—from Chicago I couldn't say.
Q. You don't have much freight from Chicago?
A. I don't know your truck schedules into Lake Wales, from Chicago.
[fol. 1617] Q. Then you serve no one from Chicago?
A. I don't know; I know they do beat us sometimes, one and two days from St. Louis and Louisville.
Q. How many truck lines serve——
A. I couldn't tell you all of them, sir.
Q. In the course of your survey did you acquaint the receivers of freight there with the existing truck services?
A. With the truck service? I acquaint them?
Q. Yes.
A. No, sir.
Q. You didn't ask the receivers whether they liked the present truck service?
A. Yes, that was discussed, naturally.
Q. Well, did they or did they not?
A. Well, in some cases I find where the truck service was beating us and they like it, see. In some cases not.
Q. And your purpose in wanting the service is to be able to compete with the existing truck lines?
A. Correct; yes sir.
Q. You feel that there is some freight that is now moving by truck, would be diverted to the rail carriers if they put in this service?
A. No, sir; I am trying to hold the business that is now moving by my line; I don't want to lose any, I want to get some if I can.
[fol. 1618] Q. You don't think this new service that you are proposing *will* here will add any freight to your business?

A. Well, yes, it will—it should.

Q. Well, where are you going to get it from?

A. I will be able to hold and possibly be able to get some of the business from the west.

Q. Then by this proposed service you expect to handle business that is now moving by truck service?

A. Not necessarily, no sir.

Q. Well, how is it moving?

A. It is moving rail to Tampa, and transferred; I mean all the way through rail, through Tampa, and the delay is at Tampa. In other words if we could—this St. Louis stuff we will say comes into Tampa and it is delivered there in Tampa, delayed in getting to Lake Wales. If we could put it on the truck, it will be in there 24 hours earlier.

Q. By speeding up your service 24 hours, do you intend to obtain more traffic into Lake Wales that you are now handling? Or not?

A. Well, that's the object in one way; and to hold what we now have.

Q. In other words, you want to get more traffic?

A. And keep what we have.

Q. And you expect this will give you some more traffic?

A. And keep what we have yes sir.

[fol. 1619] Q. Well, I am assuming that; I don't suppose you are going to lose any of it by speeding up your service.

A. Well, I have to make it that way because it doesn't apply just one way.

Q. Well, it applies both ways; and of course that traffic is now moving by truck, you expect to get?

A. No, sir; the traffic that I am interested in is the traffic now moving all rail. We are trying to build that up.

Q. Suppose you are handling 1,000 pounds of freight a day, by rail——

A. Yes, sir.

Q. When you put in this new service, do you expect to handle any more than a thousand pounds of freight?

A. Well, I couldn't say.

Q. I am asking you for your opinion now; you made the survey in Lake Wales and——

A. I will answer it this way.

Q. All right.

A. If we don't get the service, with what we now have,—if we don't get this truck, then we will lose to the truck lines what we are now handling over the railroad.

Q. That is it. Now the question is, if you will get more freight?

A. I hope so, but I can't say we will.

Q. Does your survey indicate that you will?

[fol. 1620] A. Not necessarily.

Q. Your survey didn't take that into consideration?

A. Yes, it had it in mind.

Q. Well, what was your conclusion from your survey?

A. I have stated, that if we don't get the service, we are going to lose what we now have.

Q. You and I have agreed to that.

A. Well, that is my survey, see.

Q. Now, let's answer the next question; the next question is about new freight.

A. Well, that is entirely——

Q. Just a second, I am asking your opinion on that, I don't care which way your answer it; just say yes or no. Say that you are going to get some new freight, or you don't think you are going to get it.

A. I will put it this way; I hope to.

Q. But you don't know whether you will or not?

A. I don't know, I can't swear to that.

Q. How many package cars a day do you get in?

A. Well, at present I have two; I have a Tampa car and a Jacksonville car.

Q. And does your Jacksonville car move through Tampa?

A. No, sir; direct to Lake Wales—Jacksonville to West Lake Wales, then to me by switch engine service, see.

Q. And the freight that is moving in on the package car [fol. 1621] that moves from Jacksonville, that wouldn't be affected by this proposed service, would it?

A. No, the Jacksonville car covers the stuff from the boat lines as a rule, see; M. & M. T. and the Clyde Line and the eastern stuff. However, some eastern stuff is loaded—in other words, the freight at Richmond, that is where we get it from the other line,—are R F & P and other lines, and these package cars are set up, Tampa and Jacksonville, and sometimes freight for Lake Wales is set in the Tampa car, and then that will delay it that way. But they try to load it into Jacksonville—to Jacksonville, see.

Q. Because you have better service through Jacksonville?

A. Well, not necessarily, but it — more direct.

Q. If it moves through Jacksonville, it would be delayed at Tampa?

A. The eastern stuff, yes, would go into Tampa.

Q. The reason they try to put it in that car, because there is less delay?

A. Well, I guess so. I couldn't say about that. That is an operating feature.

Mr. Watkins: That is all I have.

Chairman Matthews: That car moves over the Coleman Line?

A. Yes, sir; to West Lake Wales.

By Mr. Allison:

Q. Mr. Scarborough, how long has this present service from Tampa to Lake Wales, by the Seaboard been in ef-
[fol. 1622] fect?

Mr. Oven: You mean truck, or freight?

Mr. Allison: This present set up they brought in, the rail and the truck combination?

A. Well, you see the truck only handles intrastate stuff.

Q. That is right.

A. And it has been in about a year, now, see. But the rails—that has been several years.

Q. Well, how does the tonnage that you carry now over this Tampa-Lakeland,—Lake Wales route, compare with the total you carried over the same route a year ago?

A. Why, it doesn't vary; a little from year to year.

Q. Then you haven't been losing any business because you have been running in this method for a year—over a period of a year? Your average is about the same?

A. Well, we possibly are; some stuff out of the west is going to the truck lines on account of the schedules there.

Q. Just one second. Mr. Scarborough, did you ever make a survey similiar to the one you have made now, wherein the public were not in favor of an expedited schedule or expedited service?

A. Were not in favor?

Q. Yes. In other words, don't you always find the public wants all the service they can get, always?

A. Well, some customers, and some not.

Mr. Watkins: That is all.

[fol. 1623] By Mr. Bliss:

Q. Mr. Scarborough, in that freight column on your exhibit here, do these figures include revenue of connecting carriers that performed part of the haul?

A. Yes, sir; that included all revenue, all freight.

Q. In the case of a shipment from Chicago, it would revenue from Chicago to Lake Wales?

A. Yes, sir; that is right.

Q. And not simply the Tampa-Lake Wales portion?

A. No, sir.

Redirect examination.

By Mr. Oven:

Q. Mr. Scarborough, isn't it a fact that this Tampa-Sebring truck service was only begun along the fall of 1938?

A. Yes, that is right.

Q. And the rail service into Lake Wales has been since the Seaboard built in there?

A. Yes, since I have been there.

Mr. Watkins: Without any change of schedules?

A. Practically the same.

Mr. Watkins: For how many years?

A. Nine years I have been there. It will vary a little.

Q. Now you stated on cross examination that the package cars were loaded at Richmond, I believe, for various points in Florida?

A. Yes.

[fol. 1624] Q. And that some freight consigned to Lake Wales got into the Tampa car?

A. That is right.

Q. Through freight from that section was loaded in the Jacksonville car?

A. Yes, sir.

Q. Well now, insofar as the freight that is loaded in the Tampa package car is concerned, if that was held in Jacksonville—the car, so that that freight consigned to Lake Wales could be transferred to the package car going direct

to Lake Wales from Jacksonville, would not the effect be to delay all of the freight contained in the Tampa car?

A. Yes; they would have to set the car out at Jacksonville to work it; it would be delayed.

Mr. Oven: That is all.

Recorss examination.

By Mr. Watkins:

Q. In the course of your survey, Mr. Scarborough, did you give any consideration to a change in your rail schedules, and what effect that would have on the receivers of freight at Lake Wales?

A. Well, naturally we would have in mind improving our service, see.

Q. Well this, did you——

A. But it hasn't been discussed necessarily.

Q. You didn't give consideration to changing your sched- [fol. 1625] ule by rail, in an attempt to give better service?

A. Well, I couldn't see how we could change it.

Q. And that has been true for nine years?

A. What is true?

Q. That you couldn't see any advantage, any change in your rail schedules that would help matters.

A. I said it varied; not much, see.

(Witness excused).

Mr. J. J. Morris, Sr., was sworn and testified as follows:

Direct examination.

By Mr. Oven:

Q. State your name, Mr. Morris, please sir.

A. J. J. Morris, Sr.

Q. Where do you reside?

A. Lake Wales.

Q. How long have you lived there, sir?

A. Went there in '34; about five years.

Q. Are you engaged in business there?

A. Yes, sir; retail hardware.

Q. Do you have any shipments moving into Lake Wales, interstate? By rail?

A. Yes, sir.

Q. How do they move, by what line?

A. Well, I have tried both ways, rail and truck line. The truck line will beat them there.

[fol. 1626] Q. That is interstate freight?

A. Yes, sir; but I don't feel like I am as safe on my claims against a truck line as I am against the railroad. Some of these truck lines are,—I don't know anything about. Now it happens that some of them are, but I have met some of this hook-up that would not be. Some of the states, they wouldn't allow a truck to haul pipe over 18 feet long. Well, that makes it cost us more to buy in 18 foot lengths, than to buy in random lengths; so that is against the truck line.

Q. What rail lines do you patronize?

A. The Seaboard and Coast Line, both. Now I figure this, if we can get this truck service to handle our interstate stuff, that it will beat the trucks in there.

Q. You think it will expedite the present rail service?

A. Yes, sir; I know it will do it.

Q. From where do you get the merchandise that comes in the State?

A. Louisville, Chicago, St. Louis.

Q. Do you know how that moves now and gets to you?

A. It comes in the package car, most of it, to Tampa.

Q. And that is by package car from Tampa to Lake Wales?

A. To Lake Wales.

Q. If the granting of this application would permit the handling of that merchandise on the Seaboard truck, and if the evidence showed that the Seaboard truck leaves Tampa in the evening, say seven or eight o'clock and reached Lake Wales before morning, would it be a conveni-

[fol. 1627] ence to your business?

A. Yes, it will give it to me a couple of days quicker, when I get it.

Q. Would it——

A. You see if we bring it in here and turn it over to truck lines going out of Tampa, regardless of the railroad,—take the present truck lines; if it was turned over to them before twelve o'clock we would get it about five o'clock that evening; if it was turned over to them after twelve, we wouldn't get it until nine or ten the next morning; where the Seaboard could leave here at nine o'clock that night, and we would have it at eight o'clock in the morning. You see it will give the Seaboard about five or six hours quicker

delivery than any possible way you can get it there. It will give us this truck—what I meant if they put this Seaboard truck on, leaving here at six o'clock at night, it will put it in there six or eight hours quicker than we can get it over one of the truck lines that is already running.

Q. Well, if it was delivered from the Seaboard to one of the truck lines, you would have to pay the local rate to the truck lines?

A. Well, even in that case, if they gace us an interchangeable rate, I don't know whether they do that or not, but if they did do it, then the Seaboard truck would beat the other truck in there several hours,—even if they gave us a through [fol. 1628] rate, all the way through.

Q. Well, do you feel then that this service is necessary to the merchant at Lake Wales?

A. Yes, sir; I feel like it will give me a whole lot quicker service.

Q. How about the others?

A. It would give them the same; we are all in the same boat.

Cross-examination.

By Mr. Watkins:

Q. If the Seaboard could accomplish this same speeding up in their service by changing their rail schedules it would serve your purpose just as well, wouldn't it?

A. Yes, but they couldn't do it, with the railroad schedules they have got?

Q. How do you know that?

A. They don't do it.

Q. I say, if they could do it?

A. Yes, but they don't do it, anyhow.

Q. Let's leave it that way; I agree with you they don't do it. That is all.

By Mr. Allison:

Q. Mr. Morris, are you aware that the Nunt Truck Line has a schedule——

A. Oh yes, twice a day.

Q. Leaving Tampa at six a. m. and arriving at Lake Wales at about eight thirty a. m.

A. Yes.

[fol. 1629] Q. That delivery would reach you about as quick as the Seaboard trucks, isn't that correct?

A. Well, it hardly ever gets there at eight thirty; it gets there about ten.

Q. It gets there about ten?

A. Yes, from ten to twelve. It is due in there about eight thirty, but it is generally from ten to twelve when they get there. The same way with the Star Line; Star has two [fol. 1630] trucks goes in there a day, but it is generally—we get a lot of stuff over Star Line, and some over Hunt Line. But it is generally 10 to 12 o'clock before they get there; sometimes 1 o'clock.

Q. By telephoning in time to get it on their noon truck, the trucklines deliver to you that afternoon?

A. Yes, sir; but if I miss their noon truck, then I can have it sent on the Seaboard truck and have it there that night.

Q. What time that night?

A. Comes in there at night and I get it 8 o'clock the next morning.

Q. But if this Hunt Truck Line operates on schedule, they would reach you at 8:30?

A. Yes.

Mr. Watkins: That is all.

Redirect examination.

By Mr. Oven:

Q. Mr. Merris, the gentleman asked you if the Seaboard couldn't change its schedules so as to effect speedier arrival at Lake Wales.

Mr. Watkins: Wait a minute; I didn't ask any such question. I asked him if you could change your schedule and get a speedier service, would he be satisfied with it; and he said Yes. I didn't ask him anything about your schedules.

Q. If the Seaboard should change its schedules so as to give you earlier delivery into Lake Wales, would not that [fol. 1631] break the schedule connection as between Tampa and points north?

Mr. Watkins: But he hasn't testified anything about your schedules.

Mr. Oven: I am asking if it wouldn't do that.

Chairman Matthews: I doubt if he knows that.

A. All I know about it is from the time I get it here in Tampa, the delay is in Tampa.

Chairman Matthews: You are asking a merchant, now, something about your operating schedules.

A. I am going to tell you two reasons that I changed it. One of them was that I had a personal friend that works for the Seaboard Railroad; that was one reason. One of it is I had some stuff brought in over a truckline and it was very —it was L & L—not the L & L, but the Great Southern; and they was very, very dictatory, and I will never have anything shipped over their line. I had some stuff shipped from Atlanta, that I wouldn't accept; I make them take it back to Atlanta and ship by another line. I wouldn't have stuff come over the Great Southern Line.

Mr. Oven: That is all.

Recross-examination.

By Mr. Allison:

Q. Mr. Morris, just a moment: Have you ever had any unpleasant experience with the Hunt Truck Line?

A. No, sir.

Q. With the other truck lines?

[fol. 1632] A. None of them except the Great Southern. I won't have anything over Great Southern Line.

Q. You dealt with an individual that got your fur rubbed the wrong way?

A. Yes.

Mr. Alison: That is all.

Chairman Matthews: If that is all, you may stand aside; and we will recess now until 2: o'clock.

(Witness excused.)

(At 12:25 p. m., hearing recessed until 2: p. m.)

Afternoon Session

2:03 p. m.

(Hearing reconvened pursuant to recess.)

MR. C. X. BALFOUR and MR. J. W. OWENS were sworn, and Mr. C. X. Balfour testified as follows:

Direct examination.

By Mr. Oven:

Q. State your name, please.
A. C. X. Balfour.
Q. Where do you reside, Mr. Balfour?
A. Winter Haven.
Q. What business are you engaged in?
A. Hardware.
Q. How long have you been engaged in that business here?
A. Fourteen years.
Q. Do you receive interstate shipments over Seaboard [fol. 1633] Air Line Railway?
A. Yes, sir.
Q. From where do they come?
A. St. Louis, Louisville, chiefly.
Q. You have heard the purpose of this application, that the Seaboard be permitted to handle interstate shipments?
A. Yes.
Q. —by truck from Tampa to Winter Haven, have you not?
A. Yes.
Q. Would that be a convenience to you?
A. Well from what I can hear, it would be.
Q. In what way?
A. Why, quicker delivery.
Q. Are those shipments that you receive via Seaboard routed expressly by you, or by the shippers?
A. They are routed by me.
Q. Routed by you?
A. Yes, sir.
Q. Why do you have them routed via Seaboard?
A. Why?
Q. Yes, sir?

A. Chiefly out of friendship with your agents over there.

Q. Outside of time in delivery, you find the service satisfactory, do you?

A. I find it satisfactory. I have tried the trucklines on [fol. 1634] interstate shipments, but I find the freight shipments more satisfactory in, I might say, that they come in better condition.

Q. Now assuming for the sake of argument that the proof here shows that if this certificate were granted, the delivery into Winter Haven would be stepped up some 20 to 24 hours, would that be a convenience to your business?

A. It certainly would. It would be to every small retailer.

Q. Would be to every small retailer?

A. The large ones too, as far as that is concerned.

Q. Do you feel that the speeding up of that service is a necessity to your business?

A. Is what?

Q. A Necessity: do you think it necessary?

A. Yes, it is very necessary that we get our goods just as quick as we can, because we don't order in large quantities.

Q. And the sooner you get it, the sooner you can sell it and turn over?

A. In certain instances some of them are special orders; it is very necessary that we get them quick.

Mr. Oven: Take the witness.

Cross-examination.

By Mr. Watkins:

Q. Mr. Balfour, if the service by the Seaboard was stepped up 24 hours would it make any difference to you how that was accomplished, whether by truck service or rail service?

A. No; it would not.

[fol. 1635] Q. All you are interested in is——

A. Quick delivery, that is all I am interested in.

Q. And had you rather have that quick delivery by truck or by rail?

A. It wouldn't make a particle of difference, just so I get it.

Q. I think you stated you found the shipments brought in by rail were in better condition than shipments moving in by truck.

A. That is very true on a long haul.

Q. So you would prefer that your shipments not move by truck?

A. On long haul, that is right. Short hauls it doesn't make any difference; they come in good shape, short hauls.

Mr. Watkins: That is all.

By Mr. Allison:

Q. Mr. Balfour, what truck lines have you been patronizing?

A. The Hunt, Central, Star, out of Tampa.

Q. Have you had any difficulty in disposing of any claims with those truck lines, for any of these shipments?

A. No; none whatever.

Q. Have you investigated the service which they offer into Winter Haven now, daily schedules?

A. Investigated it? I use it every day. I use the trucks every day—I mean every week.

Q. Yes, sir; and you are pretty well informed on their connections on up the country with other carriers?

A. No; I mean on intrastate shipments I use the trucks [fol. 1636] out of Tampa; but on long hauls I use the railroad.

Q. Then if the service was available there which would give you this 24-hour speeding-up, and your merchandise arrived in good condition, that would be your main interest?

A. That is right.

Q. Without regard to how it might be worked out to furnish that service?

A. That is right.

Mr. Allison: That is all; thank you, sir.

Redirect examination.

By Mr. Oven:

Q. Mr. Balfour, if this freight that you get from Louisville and other points outside of the state, comes into Tampa in a package car and is transferred from there to a truck operated by the Seaboard Air Line from Tampa to Winter

Haven, would you have any objection to that service in that way?

A. No; none whatever.

Q. There would have to be a transfer anyway, would there not?

A. Yes, at Tampa.

Q. Have they pickup and delivery service in Winter Haven,—the Seaboard?

A. Oh yes.

Q. And if you get your own goods you get an allowance for moving them?

A. That is right.

Mr. Oven: That is all.

[fol. 1637] Mr. Watkins:

Q. Would it make any difference whether this truck out of Tampa was owned by the Seaboard Railroad or owned by somebody else?

A. Wouldn't make a particle of difference to me.

By Mr. Oven:

Q. If the Seaboard and the truckline that Mr. Watkins refers to were operated by different concerns, and the result was you had to pay a local rate from Tampa to Winter Haven, would that make any difference?

A. Why certainly; the rate would enter into it; certainly it would make a difference.

Q. You would prefer then if it is delivered to the rail line, it be delivered by a rail line or its subsidiary truckline?

A. Well at the same rate; it wouldn't make any difference to me just so the rate was the same.

Mr. Oven: That is all.

Chairman Matthews: You may stand aside.

(Witness excused.)

Mr. J. W. Owens having been sworn thereupon testified as follows:

Direct examination.

By Mr. Oven:

Q. Mr. Owens, you have heard what Mr. Balfour has said with reference to this service?

A. Yes.

Q. Do you subscribe to that?

A. Yes, I do. There is one point that I make; this [fol. 1638] gentleman asked if there is any particular reason why I prefer railroad to a truckline. My practice is to use a truckline on all intrastate movements, with a few exceptions. I feel that a railroad being a very definite taxpayer in the community in which I am working, are entitled to interstate shipments, and for that reason I have made it a practice to ship all of my interstate shipments via the railroad. I have recently had a shipment come to me from San Antonio by Bull Steamship from Corpus Christi into Port Tampa; and I can't recall—it came on the second or third of this month, and it was a shipment of tanks that I was very badly in need of. I took the expense and the trouble to call the Bull Steamship several days to find out when that shipment got into Port Tampa; and when it got there I asked them to ship it via Seaboard, which they did; and it was 24 or 36 hours late, I don't recall which, now, in getting into Winter Haven. They told me if this truck service had been available I wouldn't have been put to the inconvenience that I was.

Q. What is your business? I didn't ask you.

A. Manufactured gas business.

Mr. Watkins: Did that shipment come into Tampa or to what is known as Port Tampa?

A. Port Tampa, I think; wherever the Bull Steamship Company's terminal is. I believe it was Port Tampa.

An Attendant: Port of Tampa.

[fol. 1639] A. Port of Tampa; that was it.

By Mr. Oven:

Q. And you would like to see this application granted?

A. Yes, I certainly would.

Q. And you would?

Mr. Balfour: Yes. There is one thing I might mention. In Winter Haven our shipments from Tampa have to go to West Lake Wales and then transfer into Winter Haven. They don't come directly into Winter Haven.

Q. The truck would come direct?

Mr. Balfour: Yes, sir.

Mr. Watkins: Wait a minute; I want to get something straight here. Look at your schedule and see if this truck goes direct to Winter Haven.

Mr. Oven: Look at it.

Mr. Watkins: I am looking at it.

(Discussion off the record.)

Mr. Oven: The schedule says, leave Tampa 6 o'clock, Mulberry 7:20, Bartow 7:50, Lake Wales 9, Winter Haven 10 p. m.

Mr. Watkins: All right, it goes through Lake Wales to get to Winter Haven?

Mr. Oven: But it gets there 10 p. m.

Cross-examination.

By Mr. Allison:

Q. Mr. Owens, what are your initials?

A. J. W.

[fol. 1640] Q. How long have you been in business in Winter Haven?

A. Ten years.

Q. And do you find the truck service that you use, satisfactory?

A. Very satisfactory.

Q. If the applicant here could furnish this service which you are interested in, without the use of trucks, would that still satisfy you as long as you got the expedited service—would it not?

A. Yes.

Mr. Allison: That is all.

By Mr. Watkins:

Q. How about the Coast Line service to Winter Haven?

Mr. Balfour: That is satisfactory.

Q. Is that shorter than the Seaboard?

Mr. Balfour: No, I don't think so; it is about the same distance, isn't it?

Mr. Owens: My business is split about equally between the two.

Mr. Balfour: I think it is about the same distance from Jacksonville.

Q. Well what is the schedule of the Coast Line there?

Mr. Balfour: The Coast Line comes from Orlando; the Seaboard comes around through the middle of the state—Ocala. The schedule is about the same.

Q. I mean out of Tampa.

[fol. 1641] Mr. Balfour: But I don't use the Coast Line out of Tampa at all.

Q. And you are not familiar with the service of the Coast Line from Tampa over there, are you?

Mr. Balfour: Never have used it.

Mr. Owens: I use the Seaboard because I am on the Seaboard. In other words, my plant is operated on the Seaboard, and I get several carload shipments a month; and it just pleases me to give the Seaboard a portion of my l. c. l. shipments.

Q. So you are not familiar with the Coast Line service?

A. (Witness Owens): I am familiar with the Coast Line service, but they do not solicit as actively as the Seaboard.

Q. What is their service, do you know?

A. Their service is overnight from Tampa.

Q. The same as the Seaboard?

A. I believe the Seaboard is maybe a few hours longer; but it pleases me to use the Seaboard. From Jacksonville I use Coast Line; from Tampa I use Seaboard mostly.

Chairman Matthews: If you are through, gentlemen, you may stand aside, gentlemen.

(Witnesses Balfour and Owens excused.)

[fol. 1642] Mr. O. N. Canova was sworn and testified as follows:

Direct examination.

By Mr. Oven:

Q. State your name, please.
A. O. N. Canova.
Q. Where do you reside, Mr. Canova?
A. Winter Haven, Fla.
Q. What is your business?
A. Railroad agent.
Q. What railroad?
A. Seaboard.
Q. How long have you been engaged as such?
A. I have only been in Winter Haven two months.
Q. Have you compiled a statement for the months of October, November and December, from the records of the Seaboard office there, to show interstate freight received at Winter Haven in package car all rail movement in Tampa-Sebring package car?
A. Yes, sir.
Q. Is that the original of it?
A. Yes, sir.
Q. Examine this and see if it is a correct copy of it.
A. Yes, sir; as far as I can see it is, without checking it in detail.

Mr. Oven: We offer that as Exhibit #4.

[fol. 1643] Q. If this proposed application is grabted, to what extent will it speed up the service on interstate shipments from Tampa into your town of Winter Haven?
A. Approximately 24 hours.
Q. Three or 4 hours?
A. No; 24 hours.
Q. How is that brought about, Mr. Canova?
A. Well, a package car that comes into Tampa like this morning, is worked, or merchandise is put in another car, and it doesn't get out of Tampa until in the morning. That car goes into West Lake Wales some time around noon, and I don't get it until that evening around 5 or 6 o'clock; not available for delivery until the next morning. Whereas if the package car is worked in Tampa, like this

morning it would leave out on our trucks and be available in the morning.

Q. Reach Winter Haven during the night?

A. Yes.

Q. You have pickup and delivery there?

A. Yes, sir.

Mr. Oven: Take the witness.

Cross-examination.

By Mr. Watkins:

Q. Do you run a freight car out of Tampa at night, into Winter Haven?

A. Yes, sir.

Q. What time does it leave here at night?

[fol. 1644] A. Leaves Tampa?

Q. Yes.

A. I think it is early in the morning. I say, at night, but I mean—I don't know just what that schedule is.

Q. What is your schedule out of here to Winter Haven by rail?

A. I couldn't quote that exactly, but I think it leaves Tampa around 5 or 6 o'clock in the morning, possibly into Lake Wales around 12 o'clock, and then the switch engine picks it up that afternoon and brings it over to me and I get it around 5 or 6.

Q. Then to get a rail—how far is it from here to Winter Haven?

A. I think, about 55 miles. Well, it would be a little farther than that by rail.

Q. About 55 miles, and it takes 12 hours to move a rail car between those two points?

A. Yes.

Q. Is this all the shipments that moved in interstate?

A. Yes, sir; I got those from the records.

Q. The month of November you only had ten shipments arrive there?

A. Well, it is possible that there is more, for the simple reason I have two men working in my office, and one of them is not in the habit of showing transfer point, and the other one is; so I have had to correct that just for my own [fol. 1645] records; and I was told that by the clerks; not

being in Winter Haven but just a few months, we just hadn't——

Q. You get some freight in through another package car besides through Tampa?

A. Oh yes.

Q. Does more or less of your business move through Tampa, than moves by the other route?

A. Well, I guess there is more moves the other route.

Q. That is through Jacksonville?

A. Yes.

Q. And your Jacksonville car comes direct to Winter Haven without going through Tampa?

A. Yes.

Mr. Watkins: That is all.

By Mr. Allison:

Q. Mr. Canova, how long does this Tampa package car stay in Lake Wales before the switch engine picks it up and brings it to Winter Haven?

A. I would say—well from about 12 o'clock until possibly 4:30 or 5, something, in the morning.

Q. Just sitting over there on the siding?

A. Yes.

Q. If that particular car wasn't subject to delays of that sort, that would practically give you the service you want, wouldn't it?

A. No, it wouldn't satisfy my customers at all.

[fol. 1646] Q. It is what they have been getting for a long time, isn't it?

A. No; you see that car comes in late in the afternoon, and they don't get their freight until in the morning; and they don't want that freight late in the afternoon.

Mr. Allison: That is all; thank you.

(Witness excused.)

Mr. O. D. Lenn was sworn and testified as follows:

Direct examination.

By Mr. Oven:

Q. State your name, please.

A. O. D. Lenn.

Q. Where do you reside, Mr. Lenn?
A. Bartow, Fla.
Q. What is your business there?
A. I am agent for the Seaboard Air Line at that point.
Q. How long have you been agent there?
A. Be 14 years this fall.
Q. Have you prepared a statement of interstate less than carload shipments received by your station between October 1st and December 31st inclusive?
A. I did.
Q. Is that it?
A. Yes, sir.
Q. Examine this please and state if it is a true and correct copy thereof?
[fol. 1647] A. Apparently; yes, sir.
Q. Could the movement of these shipments have been expedited had the truckline of the Seaboard, which has been operated and is now being operated as between Tampa and Sebring, been permitted to handle it?
A. It would; yes, sir.
Q. To what extent and in what respect?
A. Well, approximately half a day. That is based upon this: the present movement of interstate of course as testified heretofore, comes into Tampa, were to be moved on our truck, it would be out there ready for delivery the first thing in the morning; whereas the present setup, it gets in there anywhere from 10:30 to noon, usually around 10:30.
Q. Have you pickup and delivery service at Bartow?
A. We do have; yes, sir.
Q. That is operated on a different truck?
A. Contract operator.
Q. In case the consignee gets his own goods, does he get any allowance for that transportation?
A. He has an allowance of 5¢ per 100 pounds.
Q. Have you made any survey among the merchants in Bartow to find whether or not this service would be a convenience to them, necessary to them?
A. They naturally would prefer to have it in there at 8 o'clock in the morning to 10:30 or 11 o'clock. Coming [fol. 1648] in as it is we have to make—either we have to make two deliveries, or they have to make a second trip, naturally; because they are at the depot the first thing in

the morning, and we make deliveries the first thing in the morning.

Q. From what various points do those interstate shipments come into Bartow, that are shown on this list, Exhibit 5?

A. Why practically all over the northeastern and dentral territory. It covers a multitude of sins, there. In other words, what I give you there is the tonnage as taken from the record, and not with any effort to designate the points.

Examiner Yardley: It all moved through Tampa?

A. Yes, sir; it has to; it is the only way our package car stuff can get into Bartow.

Q. This other package car that is based on Jacksonville, you don't get stuff that way?

A. No, sir; that comes down through north Florida.

Q. This tonnage would not exceed the full capacity of the truck each day, would it?

A. I don't believe I understand. You mean that we would——

Q. I mean the tonnage handled, the interstate tonnage, if allowed to be put on this truck, coupled with the interstate tonnage that it has, would not overload the truck? Just about load it up, would it not?

A. No, from what I have saw of that truck, I don't believe that it would.

[fol. 1649] Mr. Watkins: Judge, you have opened up a branch field here; would you mind putting in the record the tonnage that is moving intrastate by truck?

Mr. Oven: I am going to do that.

Mr. Watkins: I have been very much interested in it, particularly the statement that you made here which shows on November 11th there was 10,992 pounds in the package car moving to Sebring.

Mr. Oven: That is right; we might possibly have to run a second section on some days, but ordinarily it would handle it.—I think that is all.

Cross-examination.

By Mr. Allison:

Q. Mr. Canova, in surveying the public as you stated you did——

Examiner Yardley: He didn't answer that question that he did. I noticed that particularly. He said that naturally they would want it. I noticed the question and answer.

Q. You have had occasion in your years of experience with the railroad, to contact the public with reference to their desires on expedited services, haven't you?

A. You mean, the matter of deliveries?

Q. Speeding up the service.

A. Certainly.

Q. Have you ever found the public when they weren't desirous of having the speediest service possible?

[fol. 1650] A. Yes.

Q. They always want it?

A. Practically all men who are keeping their stocks low, naturally want a speedier service.

Q. And usually they want that without giving a great deal of thought to what burden might incidentally be imposed on the carrier or all the carriers in the field?

A. I differ with you there. I wish it were possible—I don't know whether this is in order or not; I wish it were possible to have brought some of my Bartow people over here today; but those people have business of their own to take care of.

Mr. Oven: Got an orange festival over in that section?

A. Absolutely.

Mr. Oven: Can't get them away, can you?

Mr. Watkins: You could have subpoenaed them, couldn't you, Judge?

Mr. Oven: Yes. I have had unwilling witnesses subpoenaed before.

(Discussion off the record.)

Examiner Yardley: Anything further, gentlemen?

Chairman Matthews: Do you have anything further with the witness?—You may stand aside, Mr. Lenn. Call your next witness, Judge.

(Witness excused.)

[fol. 1651] Mr. J. P. Carter was sworn and testified as follows:

Direct examination.

By Mr. Oven:

Q. State your name, please.
A. J. P. Carter.
Q. What is your business or occupation, Mr. Carter?
A. Trainmaster, Seaboard Air Line.
Q. What division?
A. South Florida division.
Q. Will you kindly explain to us the train schedules, freight train schedules, from out of the state into Tampa, and also the train schedules from Tampa through the Ridge section, covering the points involved in this application?
A. Well I will just explain those on the south Florida division; the north Florida trainmaster is there to tell you about those. But the Jacksonville freight comes into Tampa on the average of 6:30 in the morning; the package car. That goes out of Tampa for Bartow and Lake Wales, Mulberry, leaves here around—the yard, around 7:15 to 7:30 tomorrow morning.
Q. One second now. You said Bartow, Lake Wales, Mulberry; how about Avon Park?
A. Well that is the same connection.
Q. How about Sebring?
A. The same section.
Q. All right; go ahead.
A. Get to Bartow, it will average around 10:30 to 11 [fol. 1652] o'clock; get to Lake Wales; this train runs between the yard, Yeoman Yard, and West Lake Wales. Then there is a switch engine handles it from West Lake Wales to Lake Wales; the engine that handles the fruit, works the mines, and so forth; he gets to Lake Wales on the average of around 5 o'clock in the afternoon.
Q. Now—go ahead: there was some discussion here a minute ago about a 4-hour lay-over at Lake Wales. Can you explain that?
A. Yes, sir. This engine that goes to work, he mainly handles the fruit, and the fruit is loaded very late, sometimes as late as 2 or 3 o'clock in the morning. You know a crew makes overtime after 8 hours, and naturally we want to hold him as near to the 8 hours as possible—to

the least overtime possible. So we put him to work at 4 o'clock in the afternoon, to take care of the fruit business and handle this merchandise and other dead loads to Lake Wales. And something else; right between the time this train from Tampa gets to West Lake Wales, there is a congestion of passenger trains in there, and freight trains on the north Florida division; it would not be possible to make up his train anyhow.

Q. So that that is necessitated by reason of car conditions?

A. Yes, sir.

Q. Now are you familiar with this truck service?

A. Yes, sir.

Q. —between Tampa and Sebring?

[fol. 1653] A. Yes, sir.

Q. —and intermediate points?

A. Yes, sir.

Q. When does the truck leave Tampa?

A. Six o'clock in the afternoon.

Q. When does it reach Mulberry, Bartow, Lake Wales, Winter Haven, Avon Park and Sebring?

A. I think it's—I will tell you in a second; well it has got the same schedule there. It is due at Mulberry at 7:20, Bartow 7:50, Lake Wales 9, Winter Haven 10, Auburndale 10:30; Winter Haven 10:55, Lake Wales 11:35, Avon Park 12:50, Sebring 1:10 a. m. Then he turns around and comes back to Tampa; due back in Tampa at 5:10 a. m.

Q. Is the greater part of this tonnage outbound from Tampa, or inbound?

A. Outbound; practically all of it.

Q. Now with reference to the question of package cars being loaded, to use the technical term, on Jacksonville, or, on Tampa: will you explain that for the benefit of the record?

A. Well as I understand it, most of the western merchandise breaks bulk in Tampa, and of course naturally they have to unload it and reload it in the cars for these various points.

Q. How about the car loaded on Jacksonville?

A. Well that breaks bulk and then the stuff—the merchandise coming down from Wildwood—of course now this [fol. 1254] is out of my territory, understand; but that is loaded in another car from Wildwood, I think it breaks

bulk at Wildwood; it may possibly—Coleman, that is the next point; and works south. I couldn't say about that.

Q. If the Tampa car was held, to take out the stuff that was going to these intermediate points here, that would delay delivery to Tampa, would it not?

A. Absolutely; and it would be possible, because this train leaves before the train from Jacksonville gets in. Not necessary to leave, but you would have to break up the train and build the other train. The train from Jacksonville comes into the Tampa yard, and the train from West Lake Wales leaves from Yeoman yard, five miles apart.

Q. Are you prepared to tell us what if any car savings there would be to the Receivers of the Seaboard Air Line if the Interstate Commerce Commission would permit the handling of these l.c.l. shipments into this section of Bartow, Lake Wales, Winter Haven, Avon Park and Sebring, by the truck now being operated by the Seaboard?

A. Well on the south Florida division, 26 cars a month.

Q. 26 what?

A. 26 cars a month.

Q. 26 cars a month?

A. Yes, sir; that would be $26 a month. Now there is also entering into that, if you want to bring it in, the [fol. 1655] question of overtime on the crew there.

Q. What would that amount to?

Chairman Matthews: Mr. Carter, you testified now only as to the rental to be paid?

A. Yes, sir.

Chairman Matthews: Do you have only that in mind, Judge Oven?

A. Of course a Seaboard car, they count that the same as a foreign car.

Chairman Matthews: But Judge Oven's question I think was, what saving would you make.

Q. What car saving.

Chairman Matthews: You referred to the rentals?

Mr. Oven: Yes, sir. The situation is this. If we used one of our cars there, we have to use one of somebody else's cars.

Chairman Matthews: But I thought you were undertaking to show the difference in the operating, too, besides the rental.

A. Right at present—this wouldn't make any—very much difference on overtime; of course it comes in on account of market conditions of the fruit. But here we will start now pretty soon, instead of running this train, which we done prior to Christmas, done prior to the first of the year, instead of running it from Tampa to West Lake Wales, we run it from Tampa to Lake Wales to take care of all [fol. 1656] of the sand mines and the dead freight business there; you understand; and this switch engine I just told you about, would just handle the fruit, that is all he does, and which we will start again pretty shortly. And when this happens, and what did happen, you can figure, I think I am conservative in saying that the time taken up unloading the freight at Mulberry, Bartow and Lake Wales will take at least an hour and 15 minutes a day, which is all overtime; and that will amount to—an hour and 15 minutes a day will amount to $219.70 on a 30-day month.

Q. Amount to $219 a month?

A. And 7 months on a 30-day month.

Q. Then the saving on car rentals would be how much?

A. $26 a month; that would be a total of $245.70 a month.

Q. Have you compiled that from your records?

A. Yes, sir.

Q. Would there be any car saving on the north Florida division?

A. Well I would rather you would ask Mr. McMullen that.

Q. Where do the divisions separate, Mr. Carter?

A. We cross at West Lake Wales.

Q. Cross at West Lake Wales?

A. Yes, sir.

Q. Now there is some testimony—there are questions propounded here a short while back, indicating that the service into this section, which I will term the Ridge section, [fol. 1657] could be speeded up by a change of schedule of the train between Tampa and Sebring; could that be done?

A. I will explain that as to south Florida points. We work two crews between Tampa and West Lake Wales and Lake Wales, whichever it might be; and of course they do all local work, through freight work, all work there is, work the phosphate mines. All right; of course we got to figure on going north also. Coming north he has to work those phosphate mines, you know, and we give them until—as much as 3 o'clock to get the phosphate loaded; that will

throw him into Tampa anywhere from 6, 7, 8 or 9 o'clock, just according to the work. The rest has got to be up so he can be up at 6 o'clock the next morning. And if we used—if we run him out of here at night, it would take three crews, which would take that much more money.

Q. What would the additional crew cost?

A. It will cost you—(figuring) approximately $938 a month.

Q. Then would that be practicable?

A. That is not counting the coal, $3 a ton.

Q. Would that be a practical operation, considering the amount of interstate l.c.l. tonnage involved?

A. No, sir; it wouldn't.

Q. How long have you been connected with the Seaboard?

A. 29 years.

[fol. 1658] Q. You are familiar then with the operations and cost?

A. Yes, sir; I think so.

Q. Could this truck now being operated between Tampa and Sebring through the Ridge section, handle the l.c.l. interstate shipments now coming inbound for that territory?

A. I think so; yes, sir.

Mr. Watkins: Do you know how much it is handling now?

A. No, sir; I don't keep the tonnage; Mr. Hagood can give you that—the auditor.

Examiner Yardley: You started to make another statement.

A. I was going to say, in case it did exceed the capacity of that truck, they have got another one; they could run another one right behind it.

Q. You could run a second section?

A. Very easily. Because we have one coming from Brooksville right about that time; just gas up. It would be a pretty big truck, you know, but say you wanted to haul, all you have to do is put it on the other one.

Q. The operation of this truck service, in handling interstate business, would not result in entirely discontinuing the freight train service as between Tampa and these points, would it?

A. Not a bit; no, sir.

Q. But it would reduce the number of cars and reduce the expense?

A. The cost of operation, and the time on the consignees [fol. 1659] getting the freight.

Q. And it would improve the opportunity to the consignees to get their freight?

A. Get their freight first thing in the morning, instead of in the day.

Mr. Oven: You may take the witness.

Cross-examination.

By Mr. Allison:

Q. Mr. Carter, is this congestion of passenger trains at Lake Wales, about which you testified, seasonal or an all-year round proposition?

A. Well you might say, it is worst in the winter season, worst up until the first of April—up in April.

Q. As a matter of fact there is a considerably larger number of passenger trains operated in the area you are testifying about, during the winter months, than during the summer months?

A. Two more.

Q. Two more. Do they run more than the one section to each train?

A. Hardly ever; very seldom. But just a second; don't put this down. You understand that when you switch over there at West Lake Wales, you have to tie up the main line every time you make a switch.

Q. In other words, if this truck that you are applying for is permitted, how many employees are going to be used in the operation of that truck?

[fol. 1660] A. Two, the same as at present.

Q. Then are they going to be additional employees, or will they be——

A. Just as now.

Q. Will this operation result in laying off or furloughing of any of your personnel?

A. Train hands? No, sir.

Q. Then have you made an estimate of your approximate revenue, approximate net income you will receive from this operation?

A. No, sir; Mr. Hagood can give you that.

Q. Will you give me your estimate of the ratio between this particular movement of freight we have been talking

about—interstate freight through Tampa into these points, as compared with the through traffic that is moved on these same trains?—that is the phosphate and fruit?

A. No, sir; I couldn't do it; I have no figures. I have no way of finding out, unless I would go to the auditor to get that. He has already got that and is here to testify. No, sir; I couldn't give that to you.

Q. This auditor will be available today to give us this information?

A. He is sitting right there; yes, sir.

By Mr. Watkins:

Q. Do you handle fresh meats on that package car?

A. No, sir.

[fol. 1661] Q. Are fresh meats handled by the truck that you send out?

A. No, sir; I don't know of any; never saw it. I think I would be safe in saying no.

Q. No fresh meats moving by the Seaboard into that territory?

A. None that I know of.

By Mr. Bliss:

Q. Mr. Carter, you have one package car, called the Tampa-Sebring package car, that handles freight for Mulberry, Bartow?

A. No, sir; the car I am discussing is the car we call the Durant-Hesperides, that breaks bulk at Durant and works to Lake Wales.

Q. Durant-Hesperides package car?

A. Yes, sir.

Q. Well this is the car then that leaves Tampa at 7:15?

A. 7:15 and 7:30 in the morning; yes, sir.

Q. In what train?

A. It is—of course you understand we go north; it is called 467 train.

Q. And that arrives in Bartow at 10:30, did you say?

A. Well it would average that; yes, sir; sometimes a little later, but it will average around 10:30.

Q. And unloads at Bartow?

A. Yes, sir; unloads Bartow freight.

Q. When does it cross the north Florida division?

A. West Lake Wales.

[fol. 1662] Q. At what time?

A. Generally it will average going to West Lake around noon, 12 to 12:30. Of course there might be some days later, but that will be a pretty good average; 12 to 12:30.

Q. What happens there? Is it still Train 467 past Lake Wales?

A. No, he discontinues that at present.

Q. He discontinues completely?

A. Yes, sir; then it is handled to Lake Wales with switch engine.

Q. And arrives there about 5 p. m.?

A. Around that time; yes, sir.

Q. Well now does that same train, 467, carry another package car with goods for Sebring?

A. Yes, sir.

Q. When does that——

A. I would rather you would ask the other gentleman that. You see I have no jurisdiction over the north Florida divisions.

Q. You mean that car is what—cut off at West Lake Wales?

A. Yes, sir; and picked up with the switch engine going south towards Sebring; I don't know how far.

Q. But you don't know the distance?

A. No, sir.

Q. Is there a third car with freight for Winter Haven?

A. Yes, sir.

Q. That makes a total of three package cars?

[fol. 1663] A. Yes, sir; then he has—well that don't make any difference.

By Mr. Watkins:

Q. How does express move out on this line?

A. Between here and—we have—between where?

Q. Between Tampa and the Ridge section, as you call it.

A. Originates in Tampa and moves out of here on a passenger train we call 427; leaves here 11:40 at night.

Q. Leaves here at 11:40 at night?

A. Yes, sir.

Q. And gets into all these points before daylight?

A. Yes, sir.

Mr. Watkins: That is all.

Chairman Matthews: All right, you may stand aside, Mr. Carter.

Redirect examination.

By Mr. Oven:

Q. Mr. Carter, I understood you to answer Mr. Bliss that you had three package cars moving out on this train from Tampa; is that right?

A. Yes, sir.

Q. Each day?

A. Yes, sir; no, sir, six days a week; daily except Saturday.

Q. In short, it would be 18 a week?

A. Yes, sir.

Q. Now I think on your direct examination you said it would amount to a saving of 26 cars per month.

A. Well I was just telling you about the south Florida, [fol. 1664] Judge.

Q. Well in all then it would amount to three times that, would it not?

A. Yes, sir. I was just telling him, the south Florida.

Q. With reference to these cars, doesn't it take each car practically three days for the round trip before it is released?

A. Well, we load this merchandise in good phosphate cars and bring them back and put them at the mines the next day; we save haul that way. We try to load this merchandise in good phosphate cars, bring them back and put them in the mines.

Q. Then it wouldn't take three days for it to make a round trip?

A. No, sir; two days. You might say it would be out of service two days.

Q. Out of service two days.

A. Yes, sir.

Q. Then that would be equivalent to twice, at least, what you have testified to?

A. Yes, sir.

Q. So far as car hire is concerned?

A. Yes, sir.

Q. And that would amount to what?

A. Well, that would amount to $52 a month.

Q. At how much a day?
A. A dollar a day.

[fol. 1665] Recross examination.

By Mr. Bliss:

Q. What percentage of these cars do you say return loaded with phosphate?
A. Well, don't misunderstand me; those to Lake Wales as a rule would be very close to 100%, unless it happened to be a bad-order, or something.
Q. Then referring to the Lake Wales cars, if you didn't send those cars out with—as package cars, you would have to send out empties to pick up phosphate?
A. Well not necessarily. We do send plenty of them; yes, sir. We send hundreds of them out empty.
Q. In order to pick up phosphate?
A. Yes, sir.
Q. On this same train?
A. Not necessarily this same train. Sometimes this same train, sometimes an extra.
Q. Well this is the only regular train serving this area?
A. Yes, but we run extras through there every day; sometimes one or two, some days none, some days three or four.
Q. How far do you run the extras?
A. Anyway from Tampa to Boca Grande.
Q. Is Boca Grande on this same line?
A. No; it divides off out there; you couldn't give it unless you had a map.
Q. I have a map in front of me.
[fol. 1666] A. Well the Boca Grande line turns off out there at Edison; there is several junctions out there.
Q. Well you run some of them as far as Bartow, then, wouldn't you?
A. Sometimes; yes, sir; not to Bartow, but a couple of miles below Bartow, we run them; one down to Pembroke, another to Old Colony, another one to Husmico.
Q. When this train reaches Lake Wales around 12:30, about what—it turns around and goes back to Tampa?
A. No, sir; it ties up until the following morning.
Q. Ties up in West Lake Wales?
A. Yes, sir.
Q. Until the following morning?
A. Yes, sir.

Q. At what time?

A. Eight o'clock.

Q. And then at 8 o'clock——

A. It goes back to work, comes back to Tampa.

Q. All right, and when does it pass through Bartow, going in the opposite direction?

A. Going north? Well it will average around 1 to 2 o'clock.

Q. The next noon?

A. Yes, sir.

Q. And when does it return to Tampa again?

A. He will get into Tampa anywhere from 5 o'clock to 10 [fol. 1667] o'clock at night, according to the work.

Q. Well couldn't your train leave—couldn't this train leave Tampa at night, making its deliveries to the stations enroute to West Lake Wales, and then come back during the day time?

A. No, sir; he couldn't make a round trip for the 16 hours; he couldn't do that; and he couldn't leave here at night and get over there in time to get his rest and get back, to bring this phosphate in for the through freight north. Let me explain that to you; you don't know anything about this; the two main things, the train going south, we have a deadline of 1 o'clock at West Lake Wales for the Miami connection. All right; that is handling the merchandise and the Miami freight; we call it West Lake. coming north the main purpose of the train is to handle phosphate, and we give the mines as late as 3 o'clock in the afternoon to complete their loading. So you understand you couldn't leave here at night and get that freight over there in time for the early morning delivery, and go to West Lake Wales, and get his 8 hours' rest and start back and get the train in here in time to get that phosphate north that night, which is due out of here at 1 o'clock at night.

Q. Well your eastbound journey takes 5 hours—from 7:30 to 12:30?

A. Yes.

[fol. 1668] Q. Your westbound journey takes from 8 o'clock until——

A. Five to ten; not often 10, but sometimes.

Q. That might run 12 hours.

A. All right; I will explain that. Going south we do no work except unload *and* merchandise and set off. Coming

north we do all the work; we work all the phosphate mines. Coming north you work the first one we get is Husmica, that will take you an hour easily; sometimes we have to go to Bamberg:

Q. That is going off the line?

A. Off the line; yes, sir; which we will have to do this week, account of that Bamberg—account of the Old Colony cut-off, account of no rock; that is another hour and a half. Then the next mine we come to is Old Colony; if you work that in an hour you are lucky. Then you come on to Kings mine, and that will generally take you from 45 minutes to an hour, just according to what the situation is, how many cars are in there and how much business we got.

Q. Your 12 hour length of the trip however is taken in serving the mines on the west-bound trip?

A. Approximately.

Q. That is your hard luck.

A. Yes.

Q. So far as that crew is concerned?

A. Yes.

[fol. 1669] By Mr. Watkins:

Q. Did I understand that these cars going to the phosphate mines, handle this merchandise traffic out of Tampa?

A. No, sir. We use them; they wouldn't begin to handle them.

Q. Does the car that handles merchandise traffic out of Tampa to this area, does it come back to Tampa empty?

A. If it is a good car, as I explained before, we put it back in the phosphate mines, loading with phosphate; and we try to give them good cars.

Q. Then it is usually true that this car that takes the merchandise freight from Tampa, is used for loading phosphate?

A. As a rule, yes.

Q. As a rule?

A. Yes.

By Mr. Allison:

Q. Then Mr. Carter, how do you figure you are going to save a dollar a day?

A. Because the car is out of service—is in this service two days.

Q. I am trying to get this straight in my mind: if the car goes to Lake Wales one day, this package car——

A. Yes.

Q. It is in service?

A. Yes, sir.

Q. If it comes back the next day loaded with phosphate, it is in service.

A. Excuse me, sir; it don't come back loaded the next [fol. 1670] day; you bring it back empty the next day; that is two days; one day over and one day back to the mine.

Q. You switch it off at one of these mines and pick up a loaded car?

A. Yes, if the car is good, which it generally is; yes, sir.

By Mr. Bliss:

Q. How do you get your other cars to the mines?

A. We handle them—sometimes we get the cars, empty box cars at West Lake Wales, from the north Florida division; sometimes from Tampa, just according to how the car situation is, and how the superintendent of transportation handles them, which way his empties are located.

Q. It takes you a day then in any event to deliver an empty to a mine?

A. Yes, sir; absolutely.

Chairman Matthews: No other questions, you may stand aside, Mr. Carter.

(Witness excused).

Mr. E. R. McMullen, was sworn and testified as follows:

Direct examination.

By Mr. Oven:

Q. State your name, please.

A. E. R. McMullen.

Q. Where do you reside, Mr. McMullen?

A. Tampa.

Q. What is your occupation or business?

[fol. 1671] A. Trainmaster, north Florida division, Seaboard Air Line Railway.

Q. What territory do you cover as trainmaster of the north Florida division?

A. I have Wildwood terminals; south to Tampa; the Orlando line.

Q. Are you familiar with the service applied for here, handling l.c.l. interstate freight into Bartow, Lake Wales, Winter Haven, Avon Park and Sebring?

A. I am familiar with it so far as the north Florida division is concerned, and in a general way familiar with all of it, yes.

Q. To what extent does the north Florida division have anything to do with it?

A. Stations of Auburndale, Winter Haven, Avon Park and Sebring are located on the north Florida division.

Q. What is the l.c.l. interstate freight service now into those points?

A. I presume you mean, from Tampa?

Q. Yes.

A. Tampa loads a car daily except Sunday, known as the Sumterville receiving car; that car moves out of here on Train #88, leave Yeoman at 8:30 p.m. to Wildwood.

Q. Doing what?

A. Leaving Yeoman at 8:30 p.m.

[fol. 1672] Q. When does it leave Tampa?

A. That Yeoman Yard is Tampa; is the yard. It leaves Tampa 8:30, goes to Wildwood, set out there and picked up by Train 89, handled to West Lake Wales, working en route at Sumterville, Centerhill, Polk City, occasionally at Auburndale and Winterhaven, but most of the time the car is handled into West Lake Wales and sent back on the switch.

Q. Then that car does not go by Bartow?

A. No, sir; that car doesn't go by Bartow.

Q. Then that is a different service from that. How are these points that I mentioned, served as to freight coming into Tampa?—and cars containing interstate freight loaded on Tampa: how do you get it to those points?

A. In that car that I just told you about.

Q. Then you don't go to Bartow with it?

A. No, sir.

Q. Nor Lake Wales?

A. No, sir.

Q. Nor Winter Haven?

A. Go to Winter Haven; yes, sir.

Q. Well when does that get to Winterhaven?

A. If it is worked on the south-bound trip, it would be worked there anywhere from 10 to 12 o'clock. If it goes on into West Lake Wales, which it frequently does, and handled back on the switch, it works at Winter Haven [fol. 1673] around 2 or 3 o'clock in the afternoon, and goes back and goes south to Sebring and reaches Sebring around 5 or 6 o'clock.

Q. If this truck carrying at present intrastate traffic from Tampa to these points, is permitted to handle interstate l.c.l. shipments to what extent will that expedite the Seaboard's service into these towns?

A. Well, they would have the freight available for delivery at 8 o'clock in the morning, when the stations open up; instead of from 10:30 a.m. to Winter Haven, if everything is favorable, to 5 or 6 p.m. at Sebring.

Q. Can you tell us about what saving in cars it would amount to?

A. Well it would save that car each day, 26 days a month; and that car would easily be out of service two days on each trip; and the cost—fuel cost of handling the car from Tampa to Wildwood, Wildwood to Sebring.

Q. Well now with reference to freight coming interstate l.c.l. that is loaded on Jacksonville, as distinguished from being loaded on Tampa: could that—that does not come down through Tampa?

A. No, sir; that does not come down through Tampa.

Q. Now as to the l.c.l. freight interstate that is loaded on Tampa, when that car reaches Jacksonville, could the freight be transferred there to this car that moves direct from Jacksonville into this section, without a detriment to [fol. 1674] the service other than these particular points?

A. No, it could not be; because they don't all of those cars come through Jacksonville.

Q. How do they get in?

A. Through Baldwin, cut off at Baldwin; come into Baldwin on Train 84, are picked up there by Train—a late train for Tampa, gets in here about, oh, anywhere from 8:30 to 10:30 in the morning.

Q. Then it would be utterly impracticable, would it not, to transfer the freight loaded on Tampa, into the car that is loaded on Jacksonville, for this territory?

A. It would. It would for two reasons; first, all the cars don't go into Jacksonville, and consequently it would

involve a 24-hour delay to the Tampa proper freight, to hold that car there to make the transfer.

Mr. Oven: You may take the witness for the time.

Cross-examination.

By Mr. Allison:

Mr. McMullen, do I understand that you have a package car whose ultimate destination is the Ridge section, which leaves Tampa at 8:30 p.m., goes to Wildwood, then goes back down to Lake Wales?

A. That is right.

Q. How far is it from Tampa to Wildwood?

[fol. 1675] A. 69—73 miles.

Q. How far is it from Wildwood to Lake Wales?

[fol. 1675] A. 67—73 miles.

Q. At the same time you have a train leaving Tampa at about 7:15 a.m. which goes to the Ridge section by way of Bartow?

A. I believe so.

Q. Why wouldn't it be to the interest of the Seaboard to avoid that long haul to Wildwood, and use this other service?

A. Obviously it would mean later arrival of freight to the consignees; because it has already been testified that that train leaves here in the morning, gets to West Lake Wales around 12:30 noon. And then we would have no service northbound at that time, to work the car out. While at Winter Haven, it would leave Auburndale, Polk City, those points, without adequate service.

Q. But I understand that the situation now is, that this car that goes to Wildwood is apt to arrive at Lake Wales any time between 10 o'clock in the morning and 3 o'clock in the afternoon; isn't that correct?

A. No, not at West Lake Wales.

Q. I beg your pardon; Winter Haven.

A. Winterhaven; that is correct.

Q. Because it is handled by either one train or another between Wildwood and Lake Wales, it is not always the same connection that picks that car up?

A. It always is handled by the same train, but occasionally, or frequently I will say, the train doesn't have time [fol. 1676] to stop at Winter Haven and unload the freight.

In that case that car is taken on into West Lake Wales and handled back on the switcher. It is always handled on the same train. Now I will make a correction there: it isn't always handled on the same train, sometimes 89 handles it, sometimes 87 handles it; but they run fairly close together.

Mr. Allison: That is all.

By Mr. Bliss:

Q. Mr. McMullen, when does Train 88 arrive in Wildwood?

A. 11:57 p.m.

Q. And when does Train 89 leave?

A. An average I will say of 6:30 to 7 o'clock in the morning.

Q. 6:30 a. m.?

A. Sometimes earlier, sometimes later.

Q. When does Train 87 leave?

A. Train 87 usually about from 9 to 10 o'clock in the morning.

Q. Are they the first trains through after midnight?

A. That is right; first southbound trains to NW&N, or to the line that we have reference to.

Q. If you are able to abolish the use of these cars, as you testify, how are you going to handle freight for Sumterville and Centerhill?

A. We have other cars in the trains on which we can load that stuff.

[fol. 1677] Q. For instance?

A. Well we can handle the Sumterville and Coleman stuff to Wildwood from Tampa in our present authorized truck service; and we have other merchandise cars in 89, other than the Sumterville-Sebring car, in which that freight can be loaded and handled by Train 89.

Q. You say that Train 89 gets to Winter Haven at 10 a.m.?

A. About 10, 10:30, sometimes 11 o'clock.

Q. When does it get to West Lake Wales?

A. Around noon.

Q. Does it continue on to Avon Park and Sebring?

A. No, the train stops there.

Q. That stops at West Lake Wales?

A. 87—then we have a local service out of West Lake Wales every other day to West Palm Beach; and we have a through freight then out of West Lake Wales for Miami every day.

Q. When does that through freight go there?

A. That is #87, that leaves Wildwood 10 o'clock.

Mr. Oven: I don't see why that is material.

Mr. Bliss: I am trying to develop simply what happens to those cars, now, and what sort of service is available.

A. He leaves West Lake Wales around 3 or 4 o'clock in the afternoon.

Q. How long have these schedules been in effect in general?

A. Train 87—Trains 88 and 87 are year-around trains; [fol. 1678] for the past—ever since the line to Miami was opened up.

Q. Have you ever had any better service with faster schedules and more trains?

A. No, sir.

Examiner Yardley: Have you ever had any worse?

A. No, sir.

Examiner Yardley: Same schedules, I mean?

A. Same schedules, all the time.

(Discussion off the record.)

Q. Can you name any out of the state points at which there are package cars to Tampa—loaded to Tampa?

A. Out of my line altogether.

Q. And on cars to Jacksonville?

A. Out of my line.

Q. You are not familiar with what points these package cars to Tampa and Jacksonville originate?

A. No, sir.

Q. Do you have a witness who knows?

Mr. Oven: You have got it all through here, showing where the stuff comes from.

Mr. Bliss: Do you have a witness who knows whether they have package cars to both Tampa and Jacksonville?

Mr. Oven: That is in the record; one loaded on Tampa and one on Jacksonville. That is in the record. One goes direct from Jacksonville, and the other goes to Tampa and [fol. 1679] has to be broken and come back this way.

Mr. Bliss: No; I am talking about from Chicago; isn't there a car from Chicago to Jacksonville?

Mr. Oven: I think there is, in that direction; but that goes to Tampa; that contains stuff for this section.

Mr. Bliss: Well, I can't develop it. That is all.

Redirect examination.

By Mr. Oven:

Q. Mr. McMullen, you have no jurisdiction over the movement out of Tampa itself, do you?

A. No, sir.

Q. In the south Florida division?

A. The south Florida division has jurisdiction over Tampa terminals.

Q. And you are in—you have not that division?

A. My division starts with the yard limit board.

Q. And extends north from there, is that it?

A. Extends north from there.

Q. And the south Florida trainmaster's jurisdiction goes west from there, is that right?

A. It goes east; he goes—to be specific, it is north Florida division from Tampa to Valrico, and from Valrico east it is south Florida division, north is north Florida division. And these trains that have been referred to here go out of Tampa, it is south Florida division terminal, and go over the north Florida division to Valrico, and back [fol. 1680] on the south Florida division to Mulberry, Bartow and Lake Wales.

Q. They simply travel over your division for a certain——

A. For a short distance, to Valrico.

Q. Do you know when the package car, l.c.l. shipments, gets into Tampa from the west and the north?

A. Specifically not. I know that we have on my train 81 that comes in here, I know we have Tampa package cars.

Q. When does 81 get here?

A. 81 gets in Tampa usually around 8:30 or 9 o'clock.

Q. Day or night?

A. Day; that is in the morning.

Q. Then they can't be moved by a train until the next day?

A. That is right; or it goes out of here to those points on #88 that night.

Q. If it is going to those points you won't reach, it goes the next day?

A. That is right, 467 the next day.

Q. And won't reach those points by that train until at noon and in the afternoon?

A. To the points testified by Mr. Carter.

Q. And if it leaves here on a truck, it can go out that afternoon or evening and be delivered before business hours the next day?

A. That is correct; it would be ready for delivery at 8 o'clock the next morning.

[fol. 1681] Q. That is with reference to one train coming into Tampa; now what time does the other train arrive in Tampa?

A. The other train arriving in Tampa is the south Florida division train; I believe Mr. Carter testified it arrived here about 6:30 in the morning.

Q. No, I am talking now about any other train bringing the interstate freight in from the north and west.

A. Well that is the south Florida division train; he comes around by—leaves the north Florida division at Waldo, and comes down through Gainesville, Brooksville and in that way; gets in here at around 6:30 in the morning; he has the connection from the north and the east, but he does not have the connection from the west.

Q. Your train you mentioned a while ago is the only one that has a connection from the west?

A. He has the connection from the west; that is correct.

Mr. Oven: That is all.

(Witness excused.)

Chairman Matthews: Judge, did you state this morning you were going to give us an exhibit showing the movement of intrastate traffic?

Mr. Oven: Yes, sir; I am coming to that right now.

MR. R. M. LEWIS was recalled and further testified as follows:

Direct examination.

[fol. 1682] By Mr. Oven:

Q. Mr. Lewis, have you caused to be prepared a statement of l. c. l. freight tonnage via SAL truck from Tampa, Fla. proper to the Ridge section involved here in this application?

A. You want the freight that is loaded on the truck? Is that it?

Q. I say, via SAL truck from Tampa, Fla. proper to the Ridge section.

A. Yes, sir; for a period——

Q. Have you caused to be prepared a statement of SAL l. c. l. Florida intrastate transfer tonnage handled from Tampa, Fla. to the Ridge section?

A. Yes, sir.

Q. Will you produce that?

Mr. Oven: We offer that in evidence as Exhibit #6.

A. I would like to call your attention to an error there on that statement. It is added up wrong: where it is added 30 thousand, if you will add that it will add 50 thousand; that should be 50 thousand there where that *3* is.

Q. Then the total in Exhibit 6, where it reads 30,067 will be amended to read 50,067.—Does this statement, now, show the total pounds, number of trips, and average pounds per trip, of freight moving intrastate respectively out of Tampa proper, and also through Tampa to these points?

A. That is correct.

[fol. 1683] Q. Have you caused to be prepared a statement of l. c. l. freight tonnage via SAL package cars from Tampa proper and Tampa transfer to Ridge section?

A. That is inter-freight—yes, sir.

Q. I say——

A. Yes, sir.

Q. That is interstate freight, is it not?

A. Yes, sir.

Mr. Oven: We offer that as Exhibit #7.

Mr. Watkins: Do I understand this second calculation on Exhibit 6 deals with truck traffic?

A. Yes, sir; SAL truck.

Q. It says at the top, but you don't say "Truck" at the second heading.

Chairman Matthews: Perhaps that ought to be amended to show that, if that is correct.

A. That really applies to the truck. In other words, this freight you see at the bottom is freight that originated in other parts of Florida, but didn't originate at Tampa proper.

Mr. Oven: That is just what they want. We ask leave to amend that by adding after the word "handled", "by SAL Truck" from Tampa, Fla., to Ridge Section.—We move to amend the second heading on Exhibit 6 by adding after the words "tonnage handled", the words "by SAL Truck".

(Discussion off the record.)

[fol. 1684] Q. Now Mr. Lewis, I believe you gave the aggregate of these figures this morning, did you not?

A. On this statement here, and I would like to correct that, because I think we created the wrong impression there. You asked me a question this morning—I don't know whether I can repeat it exactly or not: what the difference was between the intra freight tonnage and the interstate; and when you asked me that question I gave you this figure here, which was incorrect. That was on the last statement there.

Q. Do you wish to correct that now?

A. I would like to correct that; yes, sir.

Mr. Allison: Which figure is it?

A. The figure 137 thousand; I told you that was handled on the truck, and that this was the interstate freight here. This is also interstate freight, too.

Examiner Yardley: The reporter was taking that down; do you know what he was talking about, Mr. Reporter?

The Reporter: No, sir.

Mr. Watkins: That is columns 1 and 2 on Exhibit 7, both covering interstate freight.

Mr. Oven: One from Tampa proper, and the other through Tampa transfer.

Q. Now go ahead and make your explanation.

A. The reason for that division there is, when we put on this truck, the Interstate Commerce Commission ad-
[fol. 1685] vised the Receivers of the Seaboard Air Line Railway that we could not handle any shipment on that truck that had the identify of an interstate shipment, regardless of whether it was from the bill of lading or from the marks on the package. At that particular time there was a lot of tonnage moving into Tampa by boat, rail and truck, going into various warehouses, and reshipped. So we did not handle that tonnage on the truck, because we put it under the category of interstate shipment. However, since then we have got a ruling from the Interstate Commerce Commission, and they designated water-front warehouses. I think that was explained in this way; that after a shipment had left the car, or the warehouse, that it went to an interior warehouse, that it lost its identity as an interstate shipment; so that is the reason that statement was made up like it was. I just wanted to explain that.

Mr. Watkins: You got a ruling from the Interstate Commerce Commission? I wonder if you would be kind enough to refer us to that ruling, or if you have a copy of it, put it in the record?

A. Well now that was furnished by Mr. Powell's office in Norfolk, from the superintendent. I haven't got it with me.

Mr. Watkins: I wonder if you would be so kind as to supply that reference?

Mr. Oven: We will give you the data pertaining to it.

(Discussion off the record.)

[fol. 1686] Examiner Yardley: You will try to obtain a copy of that ruling?

Mr. Oven: I will ask him to mail it to me.

A. The information I have was from the Receivers of the Seaboard Air Line, addressed to the superintendents of the various divisions.

Q. Do you know the number of it, or anything?

A. No, sir; I do not.

Examiner Yardley: You must have some instructions on it, then, haven't you?

A. Yes, sir; my instructions from our Norfolk office through my superintendent.

Examiner Yardley: It will be 15 days, I imagine, before you can furnish that?

Mr. Oven: Yes, sir. Now let me have just what that is, please.

(Discussion off the record.)

A. They just came out and said we couldn't handle any shipment that had the identify of an interstate shipment, if it was on the bill of lading or on the package; but it was afterward determined that if the shipment was transferred from a box car to a warehouse in Tampa, in the interior, left the waterfront entirely, that it lost its identity of an interstate shipment. In other words, I will draw you an example of that: you take the Campbell Pork & Beans people, ship beans in here by the thousand cases, [fol. 1687] I will say; they put it in a storage warehouse, it stays here six months, and then he ships 50 cases of these beans to Bartow. When it first came out the Seaboard had the impression that we could not handle the shipment on the truck. Now that has been changed, and we can handle it. That is the reason of that tonnage there—the statement is made up like it is.

(Discussion off the record.)

Mr. Oven: All right, take the witness, gentlemen.

Cross-examination.

By Mr. Allison:

Q. Mr. Lewis, what is the position of the Seaboard with reference to the Lee Terminal: Is that considered a waterfront warehouse?

A. Yes, sir.

Q. And you do not handle any freight by your truck which is dropped at the Lee Terminal?

A. We have shipments every day out of Lee Terminal, and we can't put them on the truck; that is correct. The point I was trying to bring out on this interstate business here.

Q. Was there a particular warehouse involved in this corrected ruling, when the question of interior and water-front warehouses was disposed of?

A. I don't think so. I think it applied to all warehouses in Tampa.

Q. Do you recall whether that water-front warehouse [fol. 1688] was construed to be one with a dock, on a navigable stream?

A. No, sir; I do not.

Mr. Allison: That is all.

(Witness excused.)

(Brief informal recess was had, at 3:36 p. m.)

Mr. H. A. Hagood was sworn and testified as follows:

Direct examination.

By Mr. Oven:

Q. State your name, please.

A. H. A. Hagood.

Q. Where do you reside, Mr. Hagood?

A. In Tampa, Fla.

Q. What is your business or occupation?

A. I am division auditor of the south Florida division, Seaboard Railway.

Q. As such auditor, do you have an account of the operating expenses, total out-of-pocket expenses, grand total expenses, statistics and so on, of the cost of operations of the Tampa-Sebring truck service since it was inaugurated by authority of the Railroad Commission of Florida?

A. Yes, sir.

Q. Was that prepared by you or under your supervision and direction?

A. Yes, sir.

Q. Is this the original of it?

[fol. 1689] A. That's an exact copy; the original is here, sir.

Q. This is the original?

A. Yes, sir.

Mr. Oven: This is #8.

Q. Now revert to that statement, Mr. Hagood. The expenses, including gasoline, oil, lubrication, cleaning, wages driver and helper, mileage tax, state license, and repairs, for the period of time, amounted to $2242.07? Is that right?

A. Yes, sir.

Q. And to that was added insurance, depreciation, and interest on investment, which made the total out of pocket expenses of the operation for the time, 2445.77?

A. Yes, sir.

Q. And in that you operated 27,904 miles?

A. Yes, sir.

Q. And the number of trips were 128?

A. Yes, sir.

Q. The number of quarts of oil used was 139?

A. Yes, sir.

Q. And the cost per trip 19.11?

A. Yes, sir.

Q. Was that a round trip?

A. That is a round trip.

Q. You have at the left hand corner of this statement, a star, 5/12 of the annual charges; that means you took the [fol. 1690] annual, and took 5/12ths of that, to arrive at what you put in the——

A. In the total column.

Q. The total cost?

A. Yes, sir.

Q. Now the first trip of this truck was July 11, 1938; is that right?

A. That is right.

Q. And the other figures are the model, the serial number, the motor, and the weight?

A. That is correct.

Chairman Matthews: What rate do you figure your interest at, Mr. Hagood?

A. At 6% on the amount set up in the Equipment account.

Chairman Matthews: And your depreciation, do you remember the rate?

A. The depreciation I understand is—for this class of equipment, about 7%.

Q. Now Mr. Hagood, would the application on this truck of interstate freight, increase the cost of operation any?

A. It might perhaps increase the cost of operation slightly, due to increased tonnage, requiring perhaps some additional gasoline consumption per truck mile.

Q. It would not though increase the cost of the driver or the helper?

[fol. 1691] A. No, sir.

Q. Nor the mileage tax?

Examiner Yardley: Now is that absolutely correct? It would take longer to load and unload the merchandise on this truck, wouldn't it?—and might require some overtime, or something of that kind?

A. Under the present setup no, sir; because we pay our driver and helper a monthly salary, which covers all services performed; and on the present schedule we do not pay any overtime.

Examiner Yardley: How many hours does it take to make this round trip?

A. I don't know, sir.

(Discussion off the record.)

Mr. Lewis: 6 p. m. to 5 a. m.; about 11 hours.

Q. Well, outside of a possible increase in gasoline consumption and oil consumption because of a heavier load, the cost would be about the same?

A. About the same.

Mr. Oven: That is all.

Cross-examination.

By Mr. Allison:

Q. Mr. Hagood, I don't notice any figures on here for the month of July, although there is a notation in Exhibit 8 that the first trip was on July 11, 1938.

A. I omitted the few trips that were made during the last [fol. 1692] half of July, in order to avoid pro-rating any of these charges; and the fact it was only a few trips involved. I took the five months complete beginning the first day of August.

Mr. Allison: That is all.

By Mr. Sidney Allen:

Q. Is it permissible for me to ask one or two questions on this statement, sir?—Mr. Hagood, where does the wear and tear on tires show on this statement?

A. In Item 8, repairs.

Q. That was 11.93 for 5586 miles; does that include truck repairs and tire repairs?

A. Yes, sir; all repairs to the truck, including the tires.

Q. Have you any provision for supervision which you charge to your truck operation?

A. There is no supervision nor accounting included in this statement.

Q. Do you have any terminal employees charged to this?

A. None at all.

Q. Do you have any tariffs and schedules chargeable to your truck operation?

A. Not that I know of.

Q. Do you have any solicitation chargeable to your transportation?

A. Not—no, sir; not included in this statement.

Q. Now in referring to the bottom of your statement, it says Depreciation 205.91. You say that was based on 7%?

[fol. 1693] A. Well that is our annual depreciation on this particular group-class of equipment.

Q. And you consider that that particular type or group of equipment is going to last approximately 14 years?

A. That is the period of depreciation on the class of equipment—that is this general group of equipment; yes.

Q. Where do you buy such equipment, Mr. Hagood, that will last 14 years?

A. Well it is my understanding that that depreciation of equipment is prescribed by the Interstate Commerce Commission under group plan, ICC classification of accounts.

Mr. Watkins: You are talking about a rail freight car now, aren't you?

A. No.

Mr. Bliss: What group——

Mr. Allen: Just a minute, please.

Q. Do you have charged anywhere on this statement, your supplies and expenses such as freight bills, bills of lading?

A. No, sir; I have not.

Q. Do you have any incidental charges insofar as local delivery at the other end of your truck transportation?

A. We have no local deliveries except to our station—warehouse.

Q. When this freight leaves from Tampa and goes to Lake Wales, this truck does not deliver that freight, does it?

[fol. 1694] A: No, sir, except at the station warehouse; and in most cases—in fact in every case—I was going to add that in most cases the delivery is made after the station force is off duty.

Q. Do you have anything chargeable in this statement to loss and damage that accrues on the transporting of freight on this equipment, that is referred to in this statement?

A. No, sir.

Q. That is all chargeable against rail transportation?

A. I presume so. I don't handle loss and damage claims.

Q. Who is the superintendent of your truck operations in the state of Florida?

A. The operation of this truck is under the supervision of the division superintendent.

Q. And that is all chargeable to rail?

A. Yes, sir.

Q. You have no charges then for tariffs and schedules?

A. No, sir.

Q. You have no Railroad Commission expense chargeable to this—applications for certificates, and so on?

A. Only—no, there are no such charges. Item 7 covering state licenses, of course includes the State license tag and the Railroad Commission number tag, and driver's license, only.

Q. Now on your insurance you have $96 involved here; does that cover cargo insurance, or is that carried under the rail?

[fol. 1695] A. We have been using for the purpose of our local studies, this amount of $8 per month, which I understand covers all types of insurance.

Q. That covers cargo insurance, $8 per month?

A. Well, I don't know.

Q. You don't know whether the cargo is included in that?

A. I do not.

Q. You don't know whether public liability and property damage is included in that?

A. I do not.

Q. You don't know whether workmen's compensation is included in that?

A. I do not.

Q. In other words, this $96.00 is just an arbitrary amount?

A. It is to the extent that it was given me for use in our periodical studies of highway truck operations, by our superintendent of insurance at Norfolk, Va.

Q. Who is your superintendent?

A. Mr. L. J. Malloy.

Q. Just one other related insurance: you don't know whether fire and theft insurance is involved in that or not?

A. No, sir; I do not.

Q. Do you have any solicitation chargeable to this?

A. No, sir.

Q. Are there any of the salaries of the general officers [fol. 1696] included in this?

A. No, sir; nothing but the driver and helper.

Q. Any of the expenses of the general offices?

A. No, sir.

Q. No office employees?

A. No, sir.

Q. Any law expense?

A. No, sir.

Q. Any general office supplies and expenses?

A. No, sir.

Q. Any communications service?

A. No, sir.

Q. Any employees' welfare expense?

A. No, sir.

Q. Any uncollectable revenues?

A. No, sir.

Q. And in fact you have only got about a third of your expenses on this; is that correct?

A. Well, I have on here, with the exception of these three items down here—10, 11 and 12, the actual monthly out of pocket expenses incurred and audited on this division.

Q. Well Mr. Hagood, do you think that an inexperienced truck operator can operate trucks at approximately one

third of the amount that it costs an experienced operator to operate them?

A. Will you repeat your question, please?

(Question read.)

[fol. 1697] A. Well, I am sure I don't know.

By Mr. Bliss:

Q. One more question: do you have anything in here for terminal expenses or any sort?

Mr. Oven: He answered, No.

Mr. Bliss: Terminal employees, he answered No. I want to know if he has rent for terminals, maintenance for terminals.

A. Why we haven't any terminal expense in the sense I think that you mean. Possibly I don't understand what you mean by terminal expenses.

Q. Well have you included any share——

A. Rents for storage or warehouse facilities? No.

Q. Any of the cost of maintaining the stations?

A. No.

Q. Taxes on them, and so on?

A. No.

Q. You have put in practically no overhead in this statement?

A. I have put in only three items that you might consider overhead—items 10, 11 and 12.

Redirect examination.

By Mr. Oven:

Q. Mr. Hagood, as a matter of fact, this truck service is a station to station service, serving only the stations now served or previously served by the Seaboard Air Line Railroad on its rails, is it not?

A. Yes, sir.

Q. To operate it, it doesn't become necessary to obtain [fol. 1698] any other terminals, or have any other terminal employees, does it?

A. No, sir; our terminals were already established.

Q. And the business was supervised by the same officers that supervise the balance of the system, was it not?

A. Yes, sir; without any additional supervision necessary.

Q. Now so far as solicitation goes, were any solicitors employed by the Seaboard especially for this work, or do the solicitors of the Seaboard generally handle it as well as all other work?

A. As far as I know it is all handled by the same traffic solicitors.

Q. Now so far as freight bills and bills of lading are concerned, do you handle that on a Seaboard bill of lading?

A. It is my understanding that the agent does.

Q. Now as to insurance, interstate freight coming in here we will say from Chicago over the Seaboard Air Line from River Junction to Jacksonville, thence on down—or River Junction to Baldwin, thence on down, that would already be covered by insurance, would it not?

A. Yes, sir.

Q. Now so far as insurance against cargo, as to fire and theft, that also applies, does it not?

A. It is my understanding that it does.

Q. This insurance that you have charged in here, is simply insurance for property damage, personal liability, [fol. 1699] and against fire and theft on the car itself?

A. On the unit of equipment, yes.

Q. Does the operation of this truck in any way enhance, over and above the salary or wage paid the driver and the helper, and the items appearing from 1 to 12 in this statement—increase the Seaboard's operating expenses at all?

A. Will you repeat the question, please?

(Question read.)

Mr. Oven: Put that 'increase' instead of enhance.

A. It is my understanding that Seaboard's expenses have been increased by reason of this truck service only to the extent shown on this statement.

Mr. Oven: That is all.

Redirect examination.

By Mr. Allison:

Q. Mr. Hagood, have you got any legislative expense charged against this operation?

A. No, sir.

Q. What about items such as the expense of this hearing? Do you propose to charge it against this operation?

A. No, sir.

Q. Isn't it a fact that if you didn't have the rail setup with this equipment, that you could not operate this truck according to that statement?

A. Well you understand that all the operating expenses of the railroad do not pass through my office. I am only concerned with the Division expense; expense incurred on [fol. 1700] the operating division. So many charges perhaps such as expense of this hearing, would not pass through my office at all, and I would not be in position to say. However, I don't think it would be charged against this truck operation.

Q. We have been waiting all day for some one who could answer our questions, and you were referred to us by the previous witnesses: that is the reason for my questions. Do I understand that you propose to operate this truck, if this application is granted, in exactly the same manner that you are handling intrastate freight?

A. I do not know of any proposed changes.

Q. And you would only transport your own merchandise, so to speak, between your own depots?

A. As far as I know, that is the intent.

Q. What increase per day in tonnage would be added to this equipment if the interstate freight, which has been discussed here all day, were added to this truck?

A. I don't know.

Q. Who can testify to that?

Mr. Oven: That is shown by the statements here, 6 and 7.

A. Perhaps our local agent could testify to that. He has the tonnage records in his office, both on intrastate and interstate shipments.

Q. Are you familiar with the tonnage which any of the motor truck carriers are transporting in this territory?

[fol. 1701] A. No, sir.

Q. Isn't it true that the population in this Ridge territory fluctuates extremely between the winter and the summer months?

A. I believe it is generally understood that that is a fact.

Mr. Allison: That is all I have.

(Witness excused.)

Examiner Yardley: Judge Oven, are these routes shown in the application, are they the correct highways?

Mr. Oven: Yes, sir.

Examiner Yardley: Now I understand this is strictly a station to station proposition?

Mr. Oven: Yes, sir.

Examiner Yardley: Only freight originating on the Seaboard Air Line?

Mr. Oven: Yes, sir; or its connections.

Examiner Yardley: Or its connections, including water connections?

Mr. Oven: Any shipment made by rail or water via Seaboard Air Line after it touches the Seaboard Air Line.

Examiner Yardley: What if a shipment came—you have some water, coming into Tampa?

Mr. Bliss: If it comes from Baltimore, it was by Bull Steamship Line.

Mr. Oven: Came into Tampa consigned Seaboard Air Line, we would expect to handle that.

[fol. 1703] Examiner Yardley: By truck?

Mr. Oven: By truck.

Examiner Yardley: From the port to destination?

Mr. Oven: Yes, sir.

Mr. Bliss: Such as this shipment here on about the 7th line on page — on Exhibit #3, you would expect to handle that?

Mr. Oven: Seventh line?

Mr. Bliss: Yes; Pan-Atlantic Steamship Line.

Mr. Oven; Where does it come from? If it came into Tampa interstate care of Seaboard Air Line, I would say Yes, we would expect to handle it; 58¢ there; we would like to have it if we could make it.

Mr. Watkins: Is that all the witnesses you have got? I haven't found out what I wanted, yet; I have been waiting a day for it. Will you stipulate with me that we can refer to in the record, all of the applications of the Seaboard Air Line Railroad that are pending before the Commission?

Mr. Oven: No, I cannot; but I will file it with the record when I obtain it.

Mr. Watkins: What—your applications?

Mr. Oven: Our applications.

Mr. Watkins: Well, I have got them.

Mr. Oven: Well I am not going to agree with what you have until I know that is checked up with my client.

Mr. Watkins: Do you know Mr. Stanley's signature?

[fol. 1703] Mr. Oven: Oh yes.

Mr. Watkins: Well, look at it.

Mr. Oven: This is the State of Florida——

Mr. Watkins: Well, that is attached to the application.

Mr. Oven: Where is what you want me to identify?

Examiner Yardley: Just what is it you are trying to find out?

Mr. Watkins: I want him to stipulate that we can refer to all the applications pending before the Interstate Commerce Commission for any operating rights—in this record.

Mr. Oven: Well where are they outlined in this statement?

Mr. Watkins: There are some of them in this statement; there are 19 of them.

Mr. Oven: I understand that.

Mr. Watkins: Whatever they are, Judge, it doesn't make any difference what they are; if they are on file with the Commission, will you stipulate that we can refer to them?

Mr. Oven: Some I think have been granted; some are still pe ing.

Mr. Watkins: That is right.

Mr. Oven: I don't know what have been granted altogether; I don't know what number the Board to which it was referred has reported on, either favorably or unfavorably; and I don't know what if any are pending that haven't been heard. I know that the Joint Board has recommended one service as between Fernandina and Jackson-

[fol. 1704] ville. I know—I think that one or two operations as between Jacksonville and Tampa have been authorized.

Mr. Watkins: Regardless of what they are or where they have been authorized, or their present status, will you agree that in our Brief we can refer to all of them?

Mr. Oven: I will agree to obtain from my superior officers just what they are and file that with the Board and with the Examiner, and furnish each party a copy.

Mr. Watkins: That is fine. Now then——

Chairman Matthews: How much time, Judge, do you want for that?

Mr. Watkins: I think it is unnecessary, but if he wants to do it that way we may.

Examiner Yardley: Mr. Watkins, what if they don't agree: then what?

Mr. Watkins: Well I am doing this for the benefit of this motion that I have made. I am going to refer to it anyway.

Chairman Matthews: He wants to know what you would do if Judge Oven didn't agree to stipulate or furnish it.

Mr. Watkins: I will make a motion to the ICC that all hearings be consolidated, if he refuses, because—so that the Commission can at one time and on one record find out our whole circumstances here, and what the Seaboard Air Line is trying to do.

[fol. 1705] Mr. Oven: I will furnish the information. I think I can easily do it in 15 days.

Chairman Matthews: We will do that, then.

Mr. Watkins: May I ask the Judge another question? Have you any objection to this certificate, if granted, being limited to apply—to allow traffic to move over that truck line only when such traffic is received prior or will receive subsequent rail transportation?

Mr. Oven: Has received prior or will receive subsequent rail transportation? No. A shipment might be sent to Tampa care of Seaboard Air Line consigned to Sebring.

Mr. Watkins: And you would object to that?

Mr. Oven: I would want to handle that, yes, as far as I know; I am not a traffic man, and I am not authorized to answer those questions. I am giving you now my personal opinion on that.

Mr. Watkins: Would you please put somebody on that is authorized, that can answer them?

Examiner Yardley: He stated what he wanted to, to me, just a minute ago, Mr. Watkins: it is freight originating on the rail line either of the Seaboard or other rail lines, or destined on the Seaboard or other lines, and that coming by boat, in connection with the truck.

Mr. Oven: That coming in by boat in care of Seaboard Air Line, consigned to interior points.

[fol. 1706] Mr. Watkins: Well, I am satisfied.

Mr. Bliss: He probably also would find himself eventually handling shipments ex-steamship at Jacksonville; as a matter of fact they handle it by truck to Tampa and then by this other truck to Sebring.

Chairman Matthews: There isn't any distinction between interstate freight by water and interstate freight by rail,

is there? If he has interstate rights he could handle either one; and that is what they want, I assume—what the railroads are applying for.

Mr. Bliss: We only want to make it clear what they want. They want everything.

Chairman Matthews: They want to handle interstate freight, whatever that is.

Mr. Watkins: Well Judge, the reason I asked that specific question is because it happens that the Commission has passed on a similar application, and have put such a restriction as I just mentioned to the Judge, in the certificate.

Mr. Oven: They have that right in any application, haven't they?

Mr. Watkins: That is exactly why I asked whether you were willing to have such a limitation put in yours, so the Commission would be informed as to your case.

Chairman Matthews: Is that all?

Mr. Oven: That is all.

[fol. 1707] Mr. Allison: If the Board would be kind enough to allow us a two or three minute recess, maybe we could consolidate our evidence and put it on faster.

Chairman Matthews: We will give you five minutes.

(Brief informal recess was had, 4:21-4:27.)

Mr. Sidney Allen was sworn and testified as follows:

Direct examination.

By Mr. Allison:

Q. Please state your name.

A. Sidney Allen

Q. Where do you live?

A. Tampa.

Q. Tampa, Florida,

A. Tampa, Florida.

Q. What is your business?

A. President, general manager, of the Central Truck Lines.

Q. Mr. Allen, you have been present during this hearing, have you not?

A. A majority of the time; yes, sir.

Q. Does Central Truck Lines serve any of the territory involved in the present application?

A. We serve Winter Haven direct from Tampa, and Winter Haven direct from Jacksonville and Atlanta, and connect to all points involved in this application, by the Hunt Truck Line, Great Southern, and other lines serving that territory.

[fol. 1708] Q. Do you have through rates with those connecting carriers?

A. Yes, sir.

Q. Did Central Truck Lines formerly serve other points in this territory?

A. Yes, sir; we serve all the points involved.

Q. That other territory was disposed of, was it not?

A. Yes, sir.

Mr. Allison: At this point the protestant refers to MC F-481 before the Interstate Commerce Commission.

Q. Mr. Allen, in the——

Chairman Matthews: Which has been granted, hasn't it?

Mr. Allison: Yes, sir.

Q. In the Docket number I have just mentioned, this transfer and sale of this territory was approved by the Interstate Commerce Commission?

A. Yes, sir.

Q. That was sold to whom?

A. Hunt Truck Lines.

Q. At the hearing in that case, did you testify?

A. Yes, sir.

Q. Did you state into that record the reasons for this sale?

A. Yes, sir.

Q. Briefly, what were those reasons?

A. The main reason being that there was not sufficient tonnage for all of the operators serving those points, and that [fol. 1709] the Central Truck Lines were losing money over each mile they operated, due to the lack of tonnage.

Q. Have you available the present schedules operated by Central Truck Lines into Winter Haven?

A. Yes, sir. We have two schedules a day into Winter Haven; one leaving Tampa at approximately 9: p. m., arriving in Winter Haven at approximately 3½ hours afterwards. We have another schedule that leaves out of Lake-

land, which connects with the 12 o'clock schedule out of Tampa, arriving in Winter Haven at approximately 8:30 or 9 o'clock in the morning. We have southbound schedules, one leaving Orlando—which is in direct connection with the Atlanta schedule, leaving Orlando at 6 p. m., arriving at Winter Haven at approximately 8:30 p. m. We have another schedule leaving out of Orlando, that arrives in Winter Haven 12: noon. We have other schedules leaving Atlanta and Jacksonville, that operate into Lakeland and connect with the four Orlando schedules.

Q. Mr. Allen, what is the northern terminal of Central Truck Lines?

A. Atlanta.

Q. And do you have more than one route from Atlanta into Florida?

A. Yes, sir; we have four distinct routes.

Q. One of those routes is via Jacksonville, is it not?

A. Yes, sir.

[fol. 1710] Q. One of those routes is via Lake City, Fla.?

A. Yes, sir.

Q. Then you serve also directly the towns of Ocala, Brooksville, Orlando and Lakeland, do you not?

A. Yes, sir.

Q. What other carriers—motor freight common carriers serve the territory involved in this application?

A. St. Johns River Line Co., Hunt Truck Line, Great Southern serve part of it; Yarnell Transfer & Storage Co. out of Lakeland; Florida Motor Lines on light express.

Chairman Matthews: He asked you about common carriers.

A. Florida Motor Lines on light express; Atlanta Coast Line, Seaboard Air Line.

Q. Wait a minute:

A. Tamiami Trails—strike Coast Line and Seaboard. Tamiami Trail Tours, part of the territory. Star Truck Line.

Q. Mr. Allen, is the Central Truck Lines willing to interchange freight with rail carriers on freight destined to points in this territory?

A. Yes, sir; as far as Winter Haven, we are; yes, sir.

Mr. Allison: That is all; your witness, Judge.

Mr. Oven: No questions.

By Mr. Allison:

Q. Mr. Allen, have you compiled a statement showing tonnage and revenue on freight originating in Tampa, destined for the Ridge section?

—. ——.

[fol. 1711] Q. For the period from March 1st to May 21st 1938?

A. Yes, sir.

Q. Is that the original statement?

A. Yes, sir.

Mr. Allison: I think we might as well file that, and expedite it. That is the only copy I have; I can supply it.

Mr. Oven: I would like to have a copy.

Q. Read it into the record, then: just read that into the record, Mr. Allen.

A. This is a tonnage and revenue report on freight originating in Tampa for Ridge and Mine section, from March 1st to May the 21st. The tonnage in March of 1938 was 146,262 pounds, and the revenue was $487.06. In April, 147,475 pounds; revenue $485. The last 21 days of operation, in May, was 19,203 pounds, with a revenue of $70.38. There is freight transferred through Tampa for this section in March of 1938, was 59,906 pounds, with a revenue of $288.12. In April of 1938, 69,093 pounds, with a revenue of $383.22. In May, the last 21 days, 1,633 pounds, and $16.05 revenue.

Mr. Allison: That is all.

Cross-examination.

By Mr. Oven:

Q. Why did you not take a comparative statement for the last three months, Mr. Allen?

A. How do you mean that, Judge, please sir?

Q. The last three months of 1938.

[fol. 1712] A. We sold out; the last day of operation was on May the 21st.

Q. This is freight handled only by you, is it not?

A. By Central Truck Lines; yes, sir.

Q. Now freight transferred through Tampa, for this section, that is where you brought it in from other points?

A. Yes, sir.

Q. Does this break down intrastate and interstate?
A. No, sir; it is altogether.

Mr. Oven: That is all.

(Witness excused.)

Mr. E. R. Rowland was sworn and testified as follows:

Direct examination.

By Mr. Allison:

Q. Please state your name.
A. E. R. Rowland.
Q. Where do you live, Mr. Rowland?
A. Tampa, Fla.
Q. What is your business?
A. I am manager of the freight division, Tamiami Trail Tours, Inc.
Q. Does Tamiami Trail Tours, Inc. serve any points in the territory involved in this application?
A. They do; we serve Mulberry and Bartow.
Q. What schedules do you operate into those points?
A. One schedule daily, leaving Tampa approximately [fol. 1713] midnight, arriving at Mulberry around 1:30 a. m., Bartow around 2 a. m.
Q. Have you compiled a record of your tonnage into those points?
A. Yes, sir.
Q. Please state that.
A. I am going to have to just read this in there. I might say that these figures include all tonnage, both intrastate and interstate, moved by us into the points named. Do you want this month by month, or the total?
Q. Yes.
A. We will take Bartow first: July 1938, total tonnage of 7114 pounds; August 14,768 pounds; September 13,934 pounds; October 12,708 pounds; November 14,047 pounds; December 7476 pounds. For Mulberry, July 1938 3857 pounds; August 11,209 pounds; September 13,036 pounds; October 8737 pounds; November 11,554 pounds; December 12,438 pounds.
Q. Mr. Rowland, is Tamiami Trail Tours willing to interchange freight with rail carriers, destined to points you serve in this territory?

A. Yes, sir; we are.

Mr. Allison: Your witness, Judge.

Cross-examination.

By Mr. Oven:

Q. Do the rail carriers transfer with you?

A. No, sir.

Q. What route does your truck travel whereby it serves [fol. 1714] Bartow and Mulberry?

A. Leaving Tampa on Route US Highway 92, or State 23, via Plant City; county road to Mulberry, and over State Highway 79 from Mulberry to Bartow.

Q. Is that the termini of that route?

A. No, sir; that is not.

Q. Where does it go beyond that?

A. Arcadia.

Q. Does it go any farther east than that?

A. No, sir.

Q. What other towns between Bartow and Arcadia does it serve?

A. Beg pardon?

Q. What other towns between Bartow and Arcadia do you serve on that route?

A. Wauchula, Fort Meade, Bosworth, and Arcadia of course; and two or three other small points in there that I don't recall now.

Q. Then Bartow and Mulberry alone are only a small proportion of the entire service you render on that route?

A. They are two of the largest towns on the route. As a matter of fact you might say there are only four towns of any consequence on the route.

Q. You serve Plant City before you get there?

A. Yes, sir, five towns.

Q. You don't serve Lakeland?

A. No, sir.

[fol. 1715] Mr. Oven: That is all.

Redirect examination.

By Mr. Allison:

Q. Mr. Rowland, the statement that you made in answer to Judge Oven's question, that you did not now interchange

with rail, is not strictly correct, is it? Do you not interchange passenger traffic with the Seaboard Air Line Railroad at the present time?

A. I believe that is correct.

Q. I call your attention to it.

Recross-examination.

By Mr. Oven;

Q. Do you interchange freight? That is what I had in mind.

A. No, sir.

Q. Where do the passengers go?

A. You couldn't prove that by me, Judge.

Q. Do they go to points on the Seaboard?

A. I couldn't answer that question.

Further redirect.

By Mr. Allison:

Q. What is the northern terminus of Tamiami Trail Tours?

A. I believe Tampa is the northernmost point; possibly Plant City.

Q. On the freight transportation?

A. Yes, sir.

Q. And to the south how far?

[fol. 1716] A. Miami.

Q. To Miami. That is all.

By Mr. Watkins:

Q. Do you maintain joint rates with other truck lines that are members of the Southern Motor Carriers Rate Conference?

A. We do.

Q. And from practically all over the south?

A. All over the south and eastern states.

By Mr. Allison:

Q. Mr. Rowland, there are a number of carriers in this territory hauling exempt products, are there not?

A. Yes, sir.

Mr. Allison: That is all.

By Mr. Bliss:

Q. Mr. Rowland, are you willing to receive shipments from Clyde-Mallory Lines, Bull Steamship Line, Moore & McCormick, and Pan-Atlantic Steamship Co. at Tampa?

A. Yes, sir; and any other steamship lines.

Q. And indirectly you also interchange with boat lines at Jacksonville?

A. Yes, sir.

Q. And you have no prejudice against those shipments?

A. No, sir.

(Witness excused.)

Mr. C. A. Gertner was sworn and testified as follows:

Direct examination.

[fol. 1717] By Mr. Allison:

Q. Please state your name.

A. C. A. Gertner.

Q. Where do you live, Mr. Gertner?

A. Jacksonville, Fla.

Q. What is your business?

A. Trucking.

Q. What company are you with?

A. Great Southern Trucking Co.

Q. What is your official capacity with that company?

A. I am head of the rate department.

Q. You have been present during this hearing, have you not?

A. For the greater part of the time.

Q. Does the Great Southern Trucking Co. operate to any of the points involved in this application?

A. Yes, sir.

Q. Name them.

A. Lake Wales, Bartow, Winter Haven; that's all.

Q. And intermediate points?

A. Yes, intermediate points.

Mr. Allison: We offer this as protestants' Exhibit 9.

Q. This exhibit correctly delineates the operation of the Great Southern Trucking Co.?

A. It does.

Q. Showing northern termini in the states of North Carolina and Tennessee; southern termini in Tampa and Miami, Fla.?

[fol. 1718] A. Yes, sir.

Q. At those northern points do you connect with other motor freight carriers?

A. We do; yes, sir.

Q. Which cover the United States?

A. Yes, sir.

Q. Mr. Gertner, will you please state what schedules Great Southern Trucking Co. has in operation into this territory?

Mr. Oven: Make that more specific; what territory? What part of it?

Mr. Allison: He has stated what points he covers; now I am asking him the schedules into those points which he serves directly.

A. Well on interstate shipments, and freight moving from Tennessee and North and South Carolina, Georgia and Alabama, we have a schedule that leaves Lakeland at 9 a. m., arrives at Auburndale at 9:25 a. m., leaves Auburndale at 9:40 a. m., arrives Winter Haven at 10 a. m., and leaves Winter Haven at 11 a. m.; arrives at Haines City at 11:30 a. m.; leaves Haines City at 12:15 p. m., and arrives at Lake Wales at 1 p. m. Leaves Lake Wales at 2 p. m., arrives at Bartow 2:45; leaves Bartow at 3:45, and arrives at Lakeland at 4:15. We also have a schedule out of Tampa and Miami up to Lakeland, that moves out on this same schedule—the freight from those points moves on this same schedule.

[fol. 1719] Q. Then you have one daily schedule into these points you have named?

A. Daily with the exception of Saturday.

Q. Saturday; that is five days a week, or seven days—six days?

A. Six days.

Q. Have you checked your records to ascertain the tonnage that you have moved into this territory?

A. I haven't checked it; I have some figures that were worked up by our Lakeland agent, that are—that were given to me, and he stated they were correct.

Mr. Oven: We object to any hearsay statement.

Mr. Allison: Just a minute; we have had a lot today, and a little more won't hurt.

Q. Did he prepare that himself?

A. Yes, sir.

Q. Is he a regular employe of the Great Southern Trucking Company?

A. He is.

Q. Has he been in that office——

A. For the past four years to my knowledge.

Q. And this statement was prepared by him?

A. It was.

Q. And delivered to you?

A. And delivered to me; I have the adding machine tape on it.

[fol. 1720] Q. And it has been in your possession since he delivered it to you?

A. Yes.

Mr. Allison: We submit it is admissible.

Mr. Oven: I won't take up any time making any objection.

Chairman Matthews: Just go ahead.

Q. Read it into the record, Mr. Gertner.

A. I have before me here a statement——

Q. Just a moment; let the Judge glance at it, if he wishes.

Mr. Oven: Let him read it in.

A. Statement covering all shipments, that is inter- and intrastate movements of freight. The figures here are inbound into Lake Wales 100,390 pounds; outbound 3042 pounds.

Q. That is for what period?

A. That is—he has consolidated it for the past six-months period.

Q. That is beginning—ending December 31, 1938?

A. Yes; and inbound to Bartow 154,798; outbound 620 pounds. That is all the figures he has given me, except for Lakeland; do you want those?

Q. No. Is the Great Southern Trucking Co. willing to interchange shipments with rail carriers or boat lines?

A. They are; yes, sir.

Mr. Allison: That is all: your witness.

Cross-examination.

[fol. 1721] By Mr. Oven:

Q. You said, Lake Wales 100 and how many thousand pounds inbound?

A. 100,390 pounds.

Q. And outbound, what?

A. 3042 pounds.

Q. Now Bartow inbound 154,000?

A. Yes, sir.

Q. And outbound what?

A. 620 pounds.

Q. 620 what?

A. 620 pounds.

Q. 620 pounds?

A. That is right; we had a bit business there.

Q. Break your truck down.—No further questions. One second; You do not now interchange with the rail lines, do you?

A. Just to points that we don't serve; and then of course we have to apply local rates between points.

(Witness excused.)

Mr. D. E. Hunt, was sworn and testified as follows:

Direct examination.

By Mr. Allison:

Q. Please state your name.

A. D. E. Hunt.

Q. Where do you live, Mr. Hunt?

A. Tampa.

[fol. 1722] Q. What is your business?

A. Truckline.

Q. Do you operate under the name of Hunt Truck Line?

A. Yes, sir.

Q. Do you serve any of the points involved in this application?

A. All of them.

Q. You have been present during this hearing today?

A. Yes, sir.

Q. You heard Mr. Sidney Allen's testimony regarding the sale and transfer to you of certain territory by Central Truck Lines?

A. Yes, sir.

Q. How many daily schedules do you have into this territory?

A. Well the territory is kind of broken up to where it is served by more than one truck. Frostproof and Avon Park and Sebring, is served with one truck a day, leaving Tampa 3:20 in the morning, arriving in Sebring approximately 8:30. That goes by Frostproof and Avon Park.

Q. Do you serve any points in this territory we have been discussing, more than once a day?

A. Yes, sir; we serve Mulberry, Bartow, West Lake Wales, Lake Wales, Winter Haven, Auburndale: I believe that is the names discussed here. We serve all that territory double-daily from Tampa.

Q. What are your times of departure from Tampa?

[fol. 1723] A. Departure is, that territory, is leaving Tampa 6 o'clock in the morning; the furthest destination is 8:30 in the morning, the time the truck gets there; that would be Lake Wales. Then we have Mulberry, that section down in there, the same thing would happen in there, leaving Tampa at 6 o'clock. For the same territory we leave Tampa at 1 o'clock for every point mentioned above except Frostproof, Avon Park and Sebring.

Q. Do you connect with other motor carriers?

A. I do.

Q. And those carriers reach on up in the northeast and northwest part of the country, do they not?

A. Yes, sir; we have had freight—I guess it come from all over the United States, from other trucklines.

Q. This operation is seasonal to some extent, isn't it?

A. Very much.

Q. About how much heavier would you estimate the traffic to be during the winter months, as compared with the summer months?

A. I would say 50%, as a guess.

Q. Have you capacity on your trucks to haul more freight than you are now hauling?

A. Yes, sir.

Q. About what percent do you run loaded, average daily trip?

A. To Frostproof and Avon Park, Sebring, I am running about 40%, I guess, of what I could carry on the same truck.

Q. Are you willing to interchange freight with rail car-
[fol. 1724] riers or boat lines?

A. Be glad to.

Q. Have you information showing the tonnage that you have carried into these points you have mentioned?

A. Yes, sir.

Q. Will you please state what that is?

A. I will have to offer it as evidence; I haven't got it.

(Discussion off the record.)

Q. Read it into the record.

A. 1938, January the 1st to February the 1st, was 450.22; second month was 529.53; 596.47; 510.81.

Q. What months are those for?

A. Beginning January the 1st 1938; fifth was $435. Now that is in Lake Wales, beginning from January the 1st, I took over the Central Truck Lines; five months. Frostproof and Avon Park and Sebring are not split up; it is all together, served in one truck: 783.02; 811.31; 824.31; 634.36; 679.04. That is before we took over the Central Truck Lines; Frostproof, Avon Park and Sebring. Since we took over the Central Truck Lines, to Lake Wales, up until January 20, 1939, beginning the first month, I believe would be June the 1st, would be 488.87; 422.35; 385.89; 582.91; 597.24; 633.52; 712.84; 380.50. Frostproof, Avon Park and Sebring since the Central Truck Lines discontinued in there; 740.72, 745.80, 747.84; 752.72, 1414.91, 1040.73, 984.89 568.68. There is one thing I would like to mention, if I
[fol. 1725] could speak off the record:

Chairman Matthews: Well just a moment. He is reading those amounts out; are we to understand that that is for each month, beginning with January?

A. Yes, sir.

Mr. Allison: He designated the points to which it applied and then the months, and the figures followed in the calendar order of the months.

Q. Mr. Hunt, these are gross revenue figures you have given are they not?

A. Yes, sir.

Q. Subject to charges for operating expense and depreciation and so forth?

A. Yes, sir.

Q. Are you familiar with the schedules of the Star Truck Line?

A. Yes, sir.

Q. What points do they serve in this territory?

A. Mulberry, Bartow, Lake Wales, West Lake Wales, Winter Haven and Auburndale.

Q. Do you know how many schedules they have per day?

A. Yes, sir; they have two, to all points that I have just mentioned.

Q. And when to those trucks leave Tampa?

A. The morning truck leaves Tampa at 5 o'clock, and the afternoon truck leaves Tampa at 1 o'clock, for all points [fol. 1726] mentioned above.

Q. Mr. Allen has called my attention to a schedule operated by Central Truck Lines into that territory, at 1 o'clock; are you familiar with that?

A. Yes, sir.

Q. He does have a schedule at that time?

A. Yes, sir; he leaves Tampa at 1 o'clock.

Q. And that goes to——

A. As far as Winter Haven, by Auburndale and Lake Alfred and Lakeland.

Mr. Allison: That is all; your witness.

Cross-examination.

By Mr. Oven:

Q. What points did you say the Star serve besides Mulberry and Lake Wales?

A. I just mentioned the names that was involved in this case, that they serve: they serve a good many more points that I didn't mention.

Q. But in this territory, Mulberry, Lake Wales, and what else?

A. They serve every point here, and Lake Wales and Haines City, double-daily.

Q. What points involved in our application here?

A. Mulberry, Bartow, West Lake Wales, Lake Wales, Winter Haven, and Auburndale. They serve all the rest of the points in that territory, but that is the only points that is involved in this deal.

[fol. 1727] Q. This statement that you have read into the record here, includes both inter- and intrastate freight?

A. Yes, sir.

Q. And it includes also the entire business of yours and the Central Truck Lines combined, after you took over the Central Truck Lines' operation into Lake Wales and Sebring?

A. Yes, sir.

Redirect examination.

By Mr. Watkins:

Q. You are a member of the Southern Motor Carriers Rate Conference?

A. Yes, sir.

Q. And maintain joint rates with the members thereof?

A. Yes, sir. Be glad to state how many I interchange freight with: every one that touches Tampa.

By Mr. Allison:

Q. Mr. Hunt, one further question: you interchange with carriers who reach the St. Petersburg-Clearwater section and other points?

A. Yes, sir; interchange with the carriers that go throughout the United States.

(Witness excused.)

Mr. J. A. Bliss was sworn and testified as follows:

Direct examination.

By Mr. Allison:

Q. Please state your name.

A. J. A. Bliss; vice-president in charge of traffic, of St. [fol. 1728] Johns River Line Co.

Q. Do you live in Jacksonville, Fla.?

A. Yes.

Q. You have been present during this hearing today?

A. Yes.

Q. Does the St. Johns River Line Co. serve any of the towns in this territory involved?

A. Including the Edwards Line, Hartline Line, we make services to every town involved excepting Lake Wales.

Q. How many schedules per day does St. Johns River Line, Edwards Line, and Hartline Line, operate into that territory?

A. There are three schedules to Winter Haven, and one each to the other points.

Mr. Oven: How many to the other points?

A. One each day. Occasionally the main Sanford-Tampa schedule is put through Winter Haven, when there is sufficient tonnage. In main, this territory is handled, however, on two schedules: one operates out of Lakeland—well both operate out of Lakeland, and one takes a route through Winter Haven, Bartow, Mulberry, and back through Plant City to Lakeland; and the other—that incidentally is done between 6:30 and 10:30 a. m., leaving Lakeland at 6:30 and reaching the towns as soon as possible in the morning. The other schedule which I am trying to find, is missing from what is supposed to be a complete line; but it is in general the same as Mr. Hunt's schedule into that same territory; [fol. 1729] leaves either Lakeland or Tampa, depending upon circumstances, a little bit earlier in the morning, I believe, and gets to Sebring the first thing in the morning, and then peddles back; that is, the deliveries are made during the daylight hours, on the way back. That schedule serves Babson Park, Avon Park, Frostproof and Sebring; and passes through Winter Haven, so that it makes the third schedule into Winter Haven. Incidentally, both of these schedules are so designed as to interchange at Lakeland with both Jacksonville and Tampa freight. These are all capillary schedules, so to speak, and they hitch onto the main arteries at Lakeland.

Q. Mr. Bliss, is St. Johns River Line Co. willing to interchange freight with rail carriers and water carriers, which may be destined to points in this territory?

A. Certainly, and we do interchange very much with water carriers. And I believe I would be correct in saying that we interchange with some rail carriers.

(Discussion off the record.)

By Chairman Matthews:

Q. There is a difference between the rates of the rail carriers and the motor carriers?

A. In some cases yes, and in some cases no. In general the first 7 classes by rail and by motor are the same. The rail lines however protect rates lower than 7th class or 35% of first class.

Q. Well now would you be willing to interchange freight [fol. 1730] with a rail carrier on classes below 7th class and take your proportion of the rate?

A. Absolutely. We have followed that policy ever since the railroads started accusing us of taking the cream and leaving them to do the dirty work; and we have endeavored to so conduct our business that in the territories that we serve, the rail lines could withdraw tomorrow without hurting the public.

Q. But your situation in that is rather distinctive, is it not? All the motor carriers don't take freight below 7th class, except on some commodity tariff?

A. We have had our worries with them on that subject, and I really can't testify as to their attitude other than to say that I believe they are swinging around a bit.

Q. But I am speaking now of their published tariffs.

A. Well I am talking about their tariffs.

Q. That is the best evidence.

A. Well their tariffs have begun to include more and more of the lower rated articles.

Q. What I am wondering, Mr. Bliss, is how—several of the motor carriers have testified here today that they are entirely willing to interchange with the rail carriers; and I am wondering how they would overcome these difficulties that I seem to see in the way of that interchange.

A. Well I can tell you how we would overcome it; and that is by simply taking our proportion of the rate, what- [fol. 1731] ever it was. Now I will make this exception; of course we are talking about l. c. l. freight, anyway;

Q. Yes.

A. But in carload freight, in a case where the car is the package, like a tank car, and so on, we obviously can't interchange on that; but I will state flat footedly so far as our line is concerned, on any l. c. l. traffic, that if the Seaboard Air Line or any other railroad wanted to make interchange arrangements, that assuming the division is equitable,

bearing some fair relation to the mileage, the measure of the rate would not enter into it.

Q. In other words, you would be willing to take a fair proportion of the rail rate, whether it was higher or lower than your tariff rate?

A. Yes; sure.

Q. There would have to be some sort of a special dispensation to permit that, wouldn't there?

A. No, there would be no difficulty at all about publishing such a tariff; so far as the legal difficulties are concerned. Now I think that the rail lines have a union or combination of some sort that would forbid the Seaboard Air Line from entering into such arrangements; I have been unable to get them to confess that they have such private agreement with the other rail carriers, but I think that is the only thing holding it up. So far as the filing of a tariff is concerned, [fol. 1732] it is very simple; the main difference is, you have to send in five copies to Washington instead of two.

Q. I had in mind—the filing of a tariff would be a simple matter, doubtless; but I had in mind working out the details of it and arriving at something that would be a satisfactory basis.

A. Well I see no difficulties from our point of view.

Q. But you couldn't speak for the entire truck operations; you are speaking from your own company's point of view?

A. Obviously.

By Mr. Allison:

Q. Mr. Bliss, is your operation into this territory profitable?

A. We are inclined to believe that it is; our operations in general are profitable but we are inclined to believe that this operation is one of the weakest links, due to the small amount of traffic down in that territory. And if the Seaboard were to be granted its application here, and took much traffic away from the presently established lines, we might have to follow Mr. Allen's example and reach a deal with Mr. Hunt.

Q. Did you want to make a statement about your tonnage?

A. I don't know that the tonnage figures are very important, other than to indicate that we have plenty of ca-

pacity to handle additional shipments, if any should be offered us. I think I just as soon make that statement: that the tonnage has been so low that it is obvious that we could [fol. 1733] handle a great deal of additional tonnage; and then if Mr. Oven wants to cross examine on that.

Mr. Hunt: You could handle as much again as you are handling, couldn't you?

A. Pretty well.

Cross-examination.

By Mr. Oven:

Q. Don't you think all of the carriers have ample capacity to handle interstate tonnage?

A. Yes, I believe that they all do.

Q. Rail and truck?

A. Well, I don't know that I can quite understand the rail system's operation, and its schedules of package cars, and one thing and another, well enough to judge whether its lines are being used efficiently or not.

Q. You make that under oath, do you?—that statement?

A. Well, I would not make a statement under oath that I believe you are running your railroads, as railroads, efficiently enough to where you can say that you have exhausted all such resources and have to ask for a truckline certificate.

Mr. Oven: No further questions.

By Examiner Yardley:

Q. Do I understand you operate two schedules in this particular territory?

A. Yes; two loops.

Q. Well if they don't operate to capacity, why is it you only—why don't you operate just one? Or is it because [fol. 1734] your line wants to give service, and for that reason you operate?

A. Well, it is because we want to give service, and we figured it out and studied over it and decided that in order to take care of the freight coming from so many different directions, Tampa and Jacksonville, and coming into a funnel-point at Lakeland, that it was necessary to have these trucks, that would be employed—two trucks that are

running at the same time, and they are employed only in the morning, they do their work between 6 in the morning usually, and noon.

Q. Does the fact that some of your competitors give two schedules a day, have anything to do with it?

A. Well, we haven't met our competitors in the sense of two schedules, night and day, one in the morning and one in the afternoon; we haven't been able to do that; but we have endeavored to arrange our schedules so that every point gets an early morning delivery; so we split it up into two trucks. Those two trucks can each handle a great deal more than they are now handling, on those deliveries.

(Witness excused.)

Mr. Allison: That is all the evidence by the protestants.

Examiner Yardley: Judge Oven, your application covers express and mail. I haven't heard anything about express today.

Mr. Oven: No, sir. I didn't know it covered that, so far as interstate was concerned. I knew it did intrastate. Of course it would follow, that would go on the same truck, at [fol. 1735] the same time; get there no quicker and no later.—Just a second:—We do not intend to insist on that; just drop the mail, for the present.

Mr. Bliss: And express?

Mr. Oven: Mail and express; we have that under the State Commission's authority, but we don't care to handle it this way.

Chairman Matthews: Applicant's Exhibits numbered 2 to 8 inclusive, and Protestants' Exhibit #9, received in evidence.

(Exhibit 2, witness Leverette, #3 witness Scarborough, #4 witness Canova, #5 witness Lenn, #6 witness Lewis, #7 witness Lewis, #8 witness Hagood, and #9 witness Gertner, received in evidence.)

Chairman Matthews: If there is nothing further, the Board will take the matter under advisement, and adjourn:

Mr. Oven: It is agreed between counsel for the applicant and counsel for protestants, that the pending applications now before the Interstate Commerce Commission on the part of the Receivers of the Seaboard Air Line Railway, may be referred to in the briefs of protestants and/or applicant.

Examiner Yardley: No briefs to be filed?

Mr. Oven: I would like to ask authority to file one. I don't know what time the Board feels would be sufficient.

Examiner Yardley: Briefs will be due February 20th. In the event an extension of time is desired for filing of briefs, request must be in Washington 7 days before the [fols. 1736-1737] Brief date. File a copy with the Examiner and with the Joint Board members, as well as copies to all parties, and with the Washington office.

(At 5:22 o'clock p. m., January 23, 1939, hearing closed.)

[fol. 1738] BEFORE THE INTERSTATE COMMERCE COMMISSION

MC 86687

SEABOARD AIR LINE RAILWAY (LEGH R. POWELL, JR., and Henry W. Anderson, Receivers), Motor Operation—Gaston-Garnett, S. C.

MC 86687 (Sub. No. 1)

SEABOARD AIR LINE RAILWAY (LEGH R. POWELL, JR., and Henry W. Anderson, Receivers), Extension—McBee-Sumter, S. C.

MC 86687 (Sub. No. 2)

SEABOARD AIR LINE RAILWAY (LEGH R. POWELL, JR., and Henry W. Anderson, Receivers), Extension—Henderson-Raleigh, N. C.

MC 86687 (Sub. No. 3)

SEABOARD AIR LINE RAILWAY (LEGH R. POWELL, JR., and Henry W. Anderson, Receivers), Extension—Hamlet, N. C.-Columbia, S. C.

MC 86687 (Sub. No. 4)

SEABOARD AIR LINE RAILWAY (LEGH R. POWELL, JR., and Henry W. Anderson, Receivers), Extension—Hamlet-Raleigh, N. C.

[fol. 1739] MC 86687 (Sub. No. 5)

SEABOARD AIR LINE RAILWAY (LEIGH R. POWELL, JR., and Henry W. Anderson, Receivers), Extension—Hamlet-Wilmington, N. C.

MC 86687 (Sub. No. 6)

SEABOARD AIR LINE RAILWAY (LEIGH R. POWELL, JR., and Henry W. Anderson, Receivers), Extension—Monroe-Rutherfordton, N. C.

MC 86687 (Sub. No. 7)

SEABOARD AIR LINE RAILWAY (LEIGH R. POWELL, JR., and Henry W. Anderson, Receivers), Extension—Richmond, Va.-Henderson, N. C.

MC 86687 (Sub. No. 8)

SEABOARD AIR LINE RAILWAY (LEIGH R. POWELL, JR., and Henry W. Anderson, Receivers), Extension—Greenwood-Great Falls, S. C.

MC 86687 (Sub. No. 9)

SEABOARD AIR LINE RAILWAY (LEIGH R. POWELL, JR., and Henry W. Anderson, Receivers), Extension—Jacksonville-Live Oak, Fla.

MC 86687 (Sub. No. 10)

SEABOARD AIR LINE RAILWAY (LEIGH R. POWELL, JR., and Henry W. Anderson, Receivers), Extension—Live Oak-River Junction, Fla.

[fol. 1740] MC 86687 (Sub. No. 15)

SEABOARD AIR LINE RAILWAY (LEIGH R. POWELL, JR., and Henry W. Anderson, Receivers), Extension—Monroe-Waxhaw, N. C.

MC 86687 (Sub. No. 18)

SEABOARD AIR LINE RAILWAY (LEIGH R. POWELL, JR., and Henry W. Anderson, Receivers), Extension—Jacksonville-Fernandina, Fla.

MC 86687 (Sub. No. 19)

SEABOARD AIR LINE RAILWAY (LEIGH R. POWELL, JR., and Henry W. Anderson, Receivers), Extension—Tampa—Sebring, Fla.

Sir Walter Hotel, Raleigh, N. C.,
November 12, 1941.

Before V. J. Livingstone, Examiner

Met pursuant to notice, at 9 a.m.

APPEARANCES:

Charles T. Abeles and William H. Delaney, Seaboard Air Line Railway Building, Norfolk, Va., appearing for Seaboard Air Line Railway, applicant.

J. Ninian Beall, 1424 16th Street N. W., Washington, D. C., appearing for American Trucking Associations; [fol. 1741] Keeshin Motor Express Company; Seaboard Freight Lines, Inc., protestants.

Reuben G. Crimm, 808 Bona Allen Building, Atlanta, Ga., appearing for Southern Motor Carriers Rate Conference, protestants.

C. H. Noah, Box 341, Burlington, N. C., appearing for Barnwell Bros., Inc., Horton Motor Lines, Inc., Thurston Motor Lines, and New South Express Lines, protestant.

W. R. Leland and H. Y. McPherson, 75 Ivy Street, Atlanta, Ga., appearing for Transportation, Inc., protestants.

Clifford T. Inglis, 410 Atlantic National Bank Building, Jacksonville, Fla., appearing for Flamingo Truck Lines, Inc.; Central Truck Lines, Inc.; Great Southern Trucking Company; St. John's River Line Company; K & L Transportation Company, Inc.; D. E. Hunt d/b/a Hunt Truck Line, protestants.

C. M. Mulholland, 1040 Nicholas Bldg., Toledo, Ohio, appearing for Railway Labor Executives' Association, protestants.

R. C. Atwood, 340 Hughes Street, Greensboro, N. C., appearing for Motor Transit Company, protestant.

H. C. Smiley, 132 E. Iowa, Memphis, Tennessee, appearing for Potashnick Local Truck System, Inc., Campbell Sixty Six Express, Inc.; Powell Bros. Truck Lines, Inc., Gordons

Transports, Inc., Highway Express Inc.; E. E. Haskett d/b/a Blue Streak Express, interveners for protestants. [fols. 1742-1743] Arne C. Wiprud, Special Assistant to the Attorney General, Department of Justice Building, Washington, D. C., appearing for Anti-trust Division, Department of Justice, Interveners.

[fol. 1744] PROCEEDINGS

Examiner Livingstone: Gentlemen, the Interstate Commerce Commission has set for further hearing at this time and place dockets indicated on the hearing notice, MC 86687 and the various subs, assigned for further hearing solely to determine whether condition 3 as set forth in the prior report, 28 M. C. C. 5, should be modified, and if so, the extent of such modification, on the 12th day of November, 1941.

Appearances for applicant?

Mr. Abeles: Charles T. Abeles and William H. Delaney, of Norfolk, Virginia.

Exam. Livingstone: You are both registered practitioners, I presume?

Mr. Abeles: Yes, sir.

Exam. Livingstone: Protestants?

Mr. Beall: J. Ninian Beall, 1424-16th St., N. W., Washington, D. C., for the American Trucking Associations, Keeshin Motor Express Co., and Seaboard Freight Lines, Inc. I am a registered practitioner.

Mr. Crimm: Reuben G. Crimm, 808 Bona Allen Building, Atlanta, Georgia, appearing for the Southern Motor Carriers Rate Conference. Registered practitioner.

Mr. Noah: C. H. Noah, Box 341, Burlington, N. C., appearing for Barnwell Bros., Inc., Horton Motor Lines, Inc., and Thurston Motor Lines, and New South Express Lines, protestants.

[fol. 1745] Mr. Leland: W. L. Leland, 75 Ivy Street, Atlanta, Georgia, appearing for Transportation, Inc. in an official capacity.

Mr. McPherson: H. Y. McPherson, 75 Ivy Street, Atlanta, Georgia, appearing for Transportation, Inc., an official of the Company.

Mr. Atwood: R. C. Atwood, 340 Hughes Street, Greensboro, North Carolina, representing Motor Transit Company of Raleigh, North Carolina. I am a bona fide employee of this company.

Mr. Mulholland: C. K. Mulholland, 1040 Nicholas Building, Toledo, Ohio, appearing for the Railway Labor Executives Association.

Mr. Inglis: Clifford T. Inglis, 410 Atlantic National Bank Building, Jacksonville, Florida, appearing for Flamingo Truck Lines, Inc.; Great Southern Trucking Company; St. Johns River Line Company; Central Truck Lines, Inc.; K & L Transportation Company, Inc.; D. E. Hunt, doing business as Hunt Truck Line. I am admitted to practice.

Exam. Livingstone: Are there any further appearances for protestants? (No response.)

Interveners?

Mr. Smiley: H. C. Smiley, 132 E. Iowa, Memphis, Tenn., appearing for Potashnick Local Truck System, Inc., Campbell Sixty-Six Express, Inc., Powell Bros. Truck Lines, Inc., Gordons Transports, Inc., Highway Express, Inc., E. E. Haskett, doing business as Blue Streak Express. We are [fol. 1746] appearing as interveners supporting the position of the protestants. I am a registered practitioner.

Mr. Wiprud: Arne C. Wiprud, Special Assistant to the Attorney General, Department of Justice Building, Washington, D. C., appearing for Anti-Trust Division, Department of Justice.

(Discussion off the record.)

Mr. Abeles: May I make a statement for the record before we start?

Exam. Livingstone: Yes, sir.

Mr. Abeles: We are advised for the first time of the intervention of the Anti-Trust Division of the Department of Justice, of the Attorney-General's office, and I have just been presented with a letter of application for intervention in which the reasons are set forth, which apparently conceives of this hearing as presenting questions arising under the Sherman Act. I want to point out that the purpose of this proceeding is not to determine the question of public convenience and necessity involved in the operation by the applicants here of the truck services which are covered by the various proceedings which are involved, but merely whether or not certain conditions heretofore imposed by previous orders of the Commission should be modified and if so, to what extent. I would like to make sure whether Mr. Wiprud understands that to be the case.

[fol. 1747] Mr. Wiprud: Yes, I think the Division understands that to be the case.

Mr. Abeles: It will go to the entire issue of the granting of the certificates and is not confined to the issues which are really before the Commission in this proceeding. I am making this statement merely to clear up the record so there won't be any misunderstanding as to the scope of this particular proceeding.

Mr. Wiprud: I understand that counsel is raising an objection to the intervention?

Mr. Abeles: Not at all, no, sir.

Mr. Beall: In order that the record may be straight, it is necessary for me to say I don't agree with Mr. Abeles with respect to the scope of this investigation. I take it that this is concerning the matter of convenience and necessity; what the Commission granted and found to be necessary was with certain restrictions. Now we have petitions to modify the restrictions, which goes back to the root of the findings in the first instance. It is necessary to find convenience and necessity with respect to the modification of what was granted in the first place.

Mr. Abeles: I would like to point out the order expressly provides that the proceedings are assigned for further hearing "solely to determine whether Condition 3 as set forth in the prior report, 28 M. C. C. 5, should be modified, and if so, the extent of such modification."

[fol. 1748] Exam. Livingstone: Is there anything further?

Mr. Wiprud: I merely want to add that when I stated to counsel that I understood what he stated, I merely meant to indicate that I understood that was his position in respect to this hearing. We want to wait until there are any developments before we state what we understand the scope of the hearing is.

Mr. Inglis: May I inquire if the particular subs involved in this hearing are those set forth in the order of the Commission setting the case for hearing, or are they those set forth in the Seaboard petition for modification?

Mr. Livingstone: The subs are indicated on the notice of hearing that are involved in this case.

Mr Inglis: May I call your attention to an apparent variance? There seems to be more mentioned in the notice than are mentioned in the Seaboard petition for modification.

Mr. Abeles: That is correct, and the reason for that will be brought out in the course of the testimony.

Exam. Livingstone: If this will change your position any, you can have a recess. This Department of Justice proposition, does it change your position?

Mr. Abeles: No, I don't see any.

Exam. Livingstone: Very well. Proceed.

Mr. Abeles: I will call Mr. Arnold.

[fol. 1749] C. D. Arnold was sworn and testified as follows:

Direct examination.

By Mr. Abeles:

Q. Mr. Arnold, state your name, residence and occupation.

A. C. D. Arnold, Norfolk, Va., Assistant to General Manager, Seaboard Air Line Railway.

Mr. Beall: I would like to inquire of counsel if he has a map.

Mr. Abeles: It is going to be introduced.

Examiner Livingstone: I will have the witness go very slowly, so I hope everybody will be able to follow this.

By Mr. Abeles:

Q. How long have you been in railroad service?

A. 37 years.

Q. What has been the general nature of your experience?

A. I have been engaged entirely in the Operating Department and have occupied the position of Assistant to the General Manager for sixteen years.

Q. In the course of your duties, Mr. Arnold, have you had occasion to familiarize yourself with the location and details of the truck operations which the Receivers of the Seaboard have been authorized to perform by the Interstate Commerce Commission?

A. I have.

Q. Are you familiar with the orders of the Commission [fol. 1750] dated July 11, 1939, in 17 MCC 413, and January 24, 1941, in 28 MCC 5, and the restrictions imposed by those orders upon the Seaboard's truck operations, particularly Restriction 3 in the order of January 24, 1941?

A. I am.

Mr. Abeles: I would like to point out at this stage while technically the applicants here are the receivers of the Seaboard, they will be referred to generally as the Seaboard.

Exam. Livingstone: All right sir.

By Mr. Abeles:

Q. Have you made a study of the effect of the restrictions imposed by Condition 3 of the order of January 24, 1941, upon the Seaboard's truck operations?

A. Yes, sir.

Q. Have you a map which shows the truck routes involved in these proceedings and the key stations on these routes named in the Commission's order of January 24, 1941?

A. I have, and offer it in evidence as Exhibit 1.

(Applicant's Exhibit 1, Witness Arnold, marked for identification.)

Q. Will you now proceed to make such explanation of this may as you deem necessary?

A. On this map we have shown the routes involved in the present proceedings with the stations served. The key stations named in the order of January 24, 1941, are indicated [fol. 1751] in red, all other stations in black, except that on the route between Gaston and Garnett the red stations are not key stations but indicate the restriction of the order with reference to the transportation of freight from Gaston or Garnett to certain stations named in the order which are on this route also indicated in red.

Q. You might point out just where the Gaston and Garnett route is.

A. The Gaston and Garnett route is on the line between Savannah and Columbia, South Carolina.

Q. Proceed.

A. The significance of the colored lines parallel with the white line is to show distinctly the limits of the routes for which separate certificates have been issued. The figures shown in parentheses after the name of each station represent the population of the various towns, based, where available, upon the 1940 census, otherwise from the best obtainable source.

Q. Before taking up your discussion of the individual routes do you wish to make a preliminary statement bearing upon the general subject here under consideration?

A. Yes. There are a number of points on the Seaboard Railway to which package cars are loaded from the large northern, eastern, and western cities.

Richmond, Va., received package cars from Philadelphia, [fol.1752] Baltimore, Washington, Helmetta Transfer, N. J., Detroit, Chicago, Cincinnati, Huntington, W. Va., Roanoke and Lynchburg, Va., these cars all containing freight for distribution from Richmond to points on the Seaboard Railway south thereof.

At Portsmouth, Va., a large tonnage of l. c. l. freight is received from coast-wise steamer lines from Baltimore, Philadelphia, New York, Boston, and Providence, and Portsmouth loads this freight in package cars for Seaboard Railway points, such as Henderson, Raleigh, Hamlet, Charlotte, Greenwood, etc.

Hamlet, N. C., is not a large community, but is the principal transfer station on the Seaboard.

Mr. Smiley: The points you have named are the points to which the package cars are routed from Portsmouth?

The Witness: That is right.

Mr. Smiley: Thank you.

The Witness: Hamlet, N. C., is not a large community, but is the principal transfer station on the Seaboard. Package cars are received there from Washington, Providence, Cleveland, Chicago, Pittsburg, Philadelphia, Wilkes-Barre, Cincinnati and from Spencer Transfer, on the Southern Railway; from Richmond containing freight transferred at that point from northern and eastern cities, and from Portsmouth containing freight received from steamer lines; also package cars from distant points on the Seaboard Railway, such as Atlanta, Birmingham, Savannah and Jacksonville. [fol. 1753] Charlotte, N. C., receives package cars from Chicago, Cincinnati, and from Johnson City, Tenn., a transfer point on the Clinchfield Railroad, containing freight from Western points; also package cars from distant cities on the Seaboard Railway, such as Richmond, Portsmouth and Atlanta.

Jacksonville, Fla., received package cars from Washington, Chicago, Cincinnati, Cleveland, Louisville, Memphis, New Orleans, St. Louis, Philadelphia, and Pensacola, Fla. Jacksonville also received a large tonnage of l. c. l. freight from coast-wise steamers.

Tallahassee, Fla., receives package cars from Atlanta, Birmingham, Montgomery, Alabama, and Columbia, Georgia, all containing freight from western cities.

Tampa, Fla., receives package cars from Chicago, Cincinnati, St. Louis, Richmond, Hamlet, N. C., and Montgomery, Ala., and also a quantity of freight from steamer lines.

It is the efficient and expeditious distribution of this package car freight to its ultimate destination with which we are very much concerned. As a general example, the difficulties at other points to be later explained, the restrictions imposed by the order of January 24, 1941, in these cases make it impossible to handle by motor vehicle from Richmond to Petersburg, or any point south of Petersburg, the freight received in package cars from distant northern, eastern and western points, and on the package car freight received at Hamlet, the motor vehicle would be [fol. 1754] restricted to distances of 12½ miles on the Wilmington route, sixteen miles on the Columbia route and fourteen miles on the Raleigh route.

Q. Will you now proceed to take up each of the routes involved in this proceeding, and state how and why we desire the key stations designated in the order of January 24, 1941, modified?

A. Yes. In doing so I will start at the northern end of the system and proceed southwardly rather than follow the order of the docket numbers. The first will be between Richmond, Va., and Henderson, N. C., Docket MC 86687, Sub 7.

Q. Is this route in operation?

A. Only between Petersburg, Va., and Bracey, Va.

Q. Why has the entire service not been inaugurated?

A. The certificate for this route originally granted in the report and order of July 11, 1939, 17 M. C. C. 413, contained the prior or subsequent rail-haul restriction. This was amended by the key station plan set forth in the report and order of January 24, 1941, 28 M. C. C. 5. The restrictions placed by both of these orders made it impossible to accomplish affectively the purposes for which certain of these services were designed, and their inauguration has therefore been held in abeyance pending the outcome of any effort to solve the difficulties by a satisfactory revision of the restrictions.

[fol. 1755] On this route Richmond and Petersburg, Va., and Henderson, N. C., have been named as key stations. The distance from Richmond to Petersburg is twenty-three miles, and from Petersburg to Henderson ninety-one miles. Regular package cars are operated on this route only from Richmond to Petersburg, Richmond to Henderson, Petersburg to Richmond and Henderson to Richmond.

I previously mentioned the package cars received at Richmond from distant off-line northern, eastern and western points. Richmond accumulates l. c. l. business from cars received from other Seaboard points and loads through package cars to northern, eastern, and western points, for example York, Pa., Baltimore, Lynchburg, Roanoke, western points on the C. & O. Ry., and the Cedar Hill transfer on the New Haven Railroad for New England points.

If Petersburg is named a key station it will prevent forwarding from Richmond by truck shipments destined to stations intermediate between Petersburg and Henderson.

Q. You mean forwarding by truck from those stations, you mean forwarding wholly by truck do you not?

A. That is right.

Q. Proceed.

A. —or to Richmond from stations intermediate between Henderson and Petersburg, or from Henderson to points intermediate between Petersburg and Richmond. Richmond is the principal wholesale distributing center for this particular territory, and this restriction would make it necessary for all shipments originating at Richmond or [fol. 1756] delivered to us by connections at that point destined to stations intermediate between Petersburg and Henderson to be loaded in cars at Richmond and transported to some station south of Petersburg and there unloaded and transferred to the truck. Although the truck could handle from such stations south of Petersburg shipments which arrived by package car from Richmond the previous night and make deliveries beyond as early as could be accomplished by handling the shipment wholly by truck from Richmond, transfer of the lading and the use of a car which could otherwise be dispensed with would result. It would not be practical to load these shipments in the Richmond to Petersburg package car because at Petersburg the freight station is located some distance from the main line. Petersburg cars are set out by the trains in the yard adjacent to the main line and must be switched by the yard

engine from there to the freight station, a distance of something over half a mile. The yard crew at this point does not go on duty until 8:30 A. M., whereas the truck will leave Richmond at 6:00 A. M., and pass Petersburg at 7:00 A. M.

Therefore the transfer of this traffic from car to truck must be made at some point south of Petersburg (it is now made at Alberta), thus requiring the use of a car which could be eliminated if the truck handled this business all the way from Richmond.

[fol. 1757] Northbound shipments originating at stations intermediate between Henderson and Petersburg destined to Richmond or beyond would have to be unloaded from the truck at Petersburg and loaded in a car for Richmond, whereas, it could have been carried through to Richmond on the truck without changing the schedule of the truck. The transfer of the freight from the truck to car at Petersburg, however, would entail delay to the freight.

The truck will pass Petersburg at 3:00 P. M., and arrive at Richmond at 4:00 p. m. The train on which the package cars from Petersburg to Richmond are handled leaves Petersburg between 6:00 and 8:00 A. M., and arrives at Richmond at 7:00 to 10:00 A. M. The interstate business from points south of Richmond moves beyond that point over connecting railroads. The cars of the connecting carriers on which these shipments are handled close at about 5:00 P. M. and leave Richmond in the early evening. Accordingly, if the truck could handle interstate traffic through to Richmond the connection of these trains could be made, whereas if Petersburg is not eliminated as a key station and freight from points south thereof must be transferred to cars at that point, the shipments would not arrive at Richmond until the following morning, involving a 24-hour delay. For the same reason it is desired to handle intrastate freight originating at Petersburg proper and consigned to points beyond Richmond wholly by truck, that [fol. 1758] is wholly by truck from Petersburg to Richmond.

As I have previously stated, at the present time freight for points south of Petersburg to and including Bracey, Va., the present terminus of the truck, is loaded at Richmond in a car that is set out at Alberta, Va., and from there distributed by truck. This car could be eliminated if the

shipments could be handled by the truck from Richmond through Petersburg.

At the present time freight for points between Bracey, Va. and Henderson is loaded by Richmond in the Henderson package car and transferred at that point to a peddler car, which is handled northward from Henderson and peddled by a local freight train. If these shipments could be handled from Richmond through Petersburg on the truck, the additional handling at Henderson and movement of the peddler car from Henderson could be eliminated, saving twenty-five cars per month, and advancing the delivery of this freight twenty-four hours. The truck would deliver this traffic between the hours of 11:00 A. M. and 12:40 P. M., whereas the local freight on which the peddler car is handled does not leave Henderson until 8:00 P. M., or later.

It is necessary for Henderson to load approximately triweekly a car containing freight for stations now served by the truck between Bracey and Petersburg, which is set out at La Crosse and distributed from there by the truck. [fol. 1759] When the truck is extended through to Henderson this car will be eliminated, and daily service will be provided.

Under the restrictions imposed by the order of January 24, 1941, we cannot use our trucks for handling traffic moving in either direction between Richmond and Petersburg, between Richmond and Henderson, or between Petersburg and Henderson. For the reasons I have explained, the only limitation which could be imposed upon the truck service over this route without seriously impairing the benefits to be derived would be to restrict the handling by truck of traffic moving from Richmond to or through Henderson, from or through Henderson to Richmond, and from Richmond to Petersburg proper, but not traffic moving from Richmond through Petersburg to points south thereof between Petersburg and Henderson. Besides the operating benefits which I have heretofore described, the modification to this extent of the restrictions now imposed will save regularly at least two cars a day.

Q. Mr. Arnold in order to make entirely clear what you have stated with reference to the restrictions to which we would not object, you say that we could be restricted without seriously impairing the benefits to be derived from the coordinated truck service in the handling by truck if traffic moved from Richmond to or through Henderson. By that

you mean, I understand, traffic which comes to us at Richmond and is consigned either to Henderson or to Points south thereof, is that correct?

A. Yes, sir.

Q. And when you say from or through Henderson to Richmond, you mean traffic which comes to us either at Hender-
[fol. 1760] son or points south of Henderson consigned to Richmond or beyond, is that correct?

A. That is right.

Q. Now you have frequently referred to the necessity of handling this l. c. l. business by peddler car if the restictions now imposed are observed. Does that have any effect upon the operations of the local trains, not on the movement, but it does require peddler car service by the train?

A. That is right.

Q. Which may in some instances delay its schedule, I presume.

A. That is correct.

Q. Exam. Livingstone: How do the parties feel about cross-examining on each particular route or do you want to wait until the entire direct testimony has been put in, is it agreeable to the parties then to proceed with the testimony and cross-examine at the end of it?

Mr. Noah: Yes.

By Mr. Abeles:

Q. Will you now proceed with your discussion of the route between Henderson, N. C., and Raleigh, N. C., Docket MC 86687, Sub 2.

A. These trucks are not yet in operation. On this route Henderson and Raleigh have been designated as key stations.

This truck service was designed to eliminate the oper-
[fol. 1761] ation of all package and peddler cars between Henderson and Raleigh in either direction and the expedite deliveries.

At the present time, we have tri-weekly local service operating between Henderson and Raleigh, leaving Raleigh on Mondays, Wednesdays, and Fridays at approximately 8:00 A. M. and arriving Henderson 3:00 to 7:00 P. M., and leaving Henderson on Tuesdays, Thursdays and Saturdays at 9:15 A. M., arriving Raleigh at approximately 6:00 to 8:00 P. M.

Raleigh loads a car daily which moves to Henderson during the night. On alternate days, a peddler car is forwarded north from Raleigh on local No. 66, peddling to intermediate stations. The other days, the car loaded to Henderson is worked back as a peddler car on local train No. 65.

Q. One moment, as I understand the statement which you have just made on the days in which a local train is not operated from either Raleigh or Henderson, the traffic consigned between Raleigh and Henderson is carried to the terminal point and peddled back by the local train and which is operated on that day, is that correct?

A. Not always from Henderson but from Raleigh, yes.

Q. But it is delivered to one of the other of those points dependent upon whether the local train is operating from the point that day is that correct?

A. Generally speaking, that is correct.

Q. So that involves a backhaul on those days?

[fol. 1762] A. That is right.

Exam. Livingstone: Proceed.

A. During the month of September, Henderson loaded to Raleigh only ten cars, but on alternate days, a peddler car was forwarded from Henderson on local No. 65 on twelve days.

Freight received at Henderson at the present time in package cars from Richmond and Portsmouth arrives at Henderson at night and is distributed tri-weekly, Tuesdays, Thursdays, and Saturdays, on local No. 65 leaving Henderson at 9:15 A. M., and arriving at Raleigh 6:00 to 8:00 P. M. The truck operation proposed would give daily service from Henderson and provide early morning delivery at all stations from Henderson to Raleigh, leaving Henderson 6:00 to 6:15 A. M.

Shipments from Raleigh are now delivered by train No. 66 tri-weekly, leaving Raleigh Mondays, Wednesdays, and Fridays at 8:00 A. M., arriving at Henderson 3:00 to 7:00 P. M.

Q. You say shipments are now delivered by train No. 66, you are speaking of deliveries on this route are you not?

A. Yes, the train only runs on this particular route.

Q. Proceed.

A. On alternate days, it is forwarded to Henderson by package car and peddled back on train No. 65, leaving

Henderson at 9:15 A. M. The truck operation would forward these shipments from Raleigh at 1:30 A. M., giving [fol. 1763] early morning delivery at all stations from Raleigh to Henderson, arriving 5:00 A. M.

These tri-weekly locals picking up shipments at points intermediate between Raleigh and Henderson do not arrive at Raleigh or Henderson in time for forwarding in package cars leaving those points the same evening, whereas the truck service leaving Raleigh at 1:45 P. M. and arriving at Henderson 5:00 P. M. would permit the forwarding of that freight the same evening in package cars loaded at Henderson. Thus, the movement of this freight would be advanced twenty-four hours.

Q. You are now speaking of another truck schedule on this route are you Mr. Arnold?

A. No. The truck runs out of Raleigh on the first trip at 1:30 A. M.

Q. That is on the North Bound movement?

A. On the Northbound movement on the second trip at 1:45 P. M.

Q. There will be two schedules?

A. No, two trips in here.

Q. On this route?

A. On this route.

Q. That is what I was trying to point out. From what you have said Mr. Arnold, I understand, that we desire to eliminate the operation of all package and peddler cars [fol. 1764] now operated between Henderson and Raleigh, and that this will be possible only if the truck can be operated without restriction not only to and from the intermediate points, but also between Henderson and Raleigh.

A. That is correct. These package cars are not in the class of through package cars because the total distance from Henderson to Raleigh is only 43 miles. Henderson will continue to receive through package cars from Richmond and Portsmouth and Raleigh will continue to receive through package cars from Richmond and Portsmouth and from Hamlet, N. C., as well, but by the restriction imposed by the order of January 24, 1941, we would be prevented from handling from Henderson or from a point north of Henderson through Henderson to Raleigh, or from Raleigh or a point south thereof through Raleigh to Henderson, and would therefore, be compelled to continue the opera-

tion of lightly loaded local package cars between these two points.

Q. You say we had been prevented from handling between these two points you have named, I presume you mean handling by truck?

A. That is correct.

Q. If we are permitted to handle shipments from Henderson to Raleigh and from Raleigh to Henderson by truck will any restrictions upon the highway service performed on this route remain?

[fol. 1765] A. Yes. As I have explained in connection with the Richmond-Henderson route, there would be a restriction against handling traffic from Richmond to or through Henderson, and, as I will later point out in connection with the Raleigh-Hamlet route, there will be a restriction against handling shipments from Hamlet to or through Raleigh.

Q. So that, as I understand you, we will still be prohibited from handling long distance l.c.l. shipments wholly by truck.

A. That is correct.

Q. Please now take up your discussion of the route between Raleigh, N. C., and Hamlet, N. C. Docket MC 86687, Sub 4.

A. Before discussing this route in detail I would like to say that the truck service out of Hamlet on three routes, that is Hamlet to Raleigh, Hamlet to Wilmington, and Hamlet to Columbia-Hartsville, was designed to coordinate with through package cars moving from Charlotte at 10:30 P. M., arriving at Hamlet at 2:40 A. M. The truck from Hamlet to Raleigh is scheduled to leave Hamlet at 3:35 A. M., from Hamlet to Columbia at 4:30 A. M., and from Hamlet to Wilmington at 4:00 A. M., these schedules being designed to handle the shipments arriving at Hamlet on the Charlotte package car for early morning delivery.

Raleigh, Apex, Sanford, Southern Pines, Aberdeen and Hamlet have been designated as key stations on this route. The distances between these key stations are as follows:

[fol. 1766] | | |
|---|---|
| Raleigh to Apex | 15 miles |
| Apex to Sanford | 28 miles |
| Sanford to Southern Pines | 25 miles |
| Southern Pines to Aberdeen | 4 miles |
| Aberdeen to Hamlet | 25 miles |
| Total distance—Raleigh to Hamlet | 97 miles. |

Q. Let me interrupt there Mr. Arnold to ask whether this route is in operation?

A. No, sir.

Q. For the reasons you have heretofore stated?

A. That is right.

Q. Proceed.

A. Through package cars are operated to Raleigh from Richmond and Portsmouth, Va., Atlanta, Ga., Greenwood, S. C., and, as previously mentioned, from a large number of the large northern, eastern, and western cities. All of these cars contain freight for distribution in the territory between Raleigh and Hamlet. Local package cars are now loaded from Raleigh to Apex, Sanford and Aberdeen, and from Hamlet to Aberdeen and Sanford, and from Sanford to Raleigh, Hamlet and Pittsboro.

There are no local freights operating through between Raleigh and Hamlet. Due to the industrial switching work in this territory, it is not possible to operate through locals because of the hours of service required, and the territory [fol. 1767] is worked by local switchers operating between Hamlet and Southern Pines, between Pittsboro and Sanford and between Raleigh and Pittsboro, but there is no connection between the switchers, and through movement from one switcher's territory to another cannot be had without delay to the freight.

This truck service was designed to provide through movement from Hamlet and Raleigh to all intermediate stations and eliminate local package and peddler cars, and to save time on the local switchers peddling l.c.l. freight. It would also make it possible frequently to eliminate through package cars now operated from Portsmouth and Richmond to Sanford and Aberdeen by consolidation with cars forwarded from Portsmouth and Richmond to Raleigh and Hamlet. However, with the key station restrictions designated on this route, the distribution of this through package car freight is absolutely stopped. Through shipments accumulated at Hamlet from through package cars which have moved long distances, up to 965 miles in the case of the Chicago-Hamlet package car, as well as shipments moving in package cars from Charlotte to Hamlet, could not be moved by truck from Hamlet, any farther than Hoffman, the first station south of Aberdeen, a distance of only 14 miles. It would be possible to handle from Raleigh through shipments accumulated at that point only to Cary, a dis-

tance of 9 miles, which is the only station between Raleigh and Apex, a total distance of 15 miles.

[fol. 1768] These two examples, which could be duplicated for each of the key stations designated on this route, illustrate the utter impracticability of operating our trucks under the existing restrictions.

The loading of package cars from Raleigh or Hamlet would still not overcome the difficulty because from Aberdeen distribution could be made only to Hoffman and Marston, from Southern Pines only to Vass, Cameron, and Lemon Springs, from Sanford only to Lemon Springs, Cameron and Vass to the south and Colon, Moncure, Pittsboro and New Hill to the north, and from Apex only to New Hill, Pittsboro, Moncure and Colon to the south and Cary to the north. Likewise, through package car lading received by Sanford and Aberdeen from Portsmouth and Richmond could be distributed by truck to only a few stations.

As to schedule movement, as an example, a shipment arriving at Hamlet in a through package car from Chicago, a distance of 965 miles, if destined to Aberdeen, twenty-five miles from Hamlet, could not be moved from Hamlet to Aberdeen by trucks; nor could a shipment from Chicago destined to Southern Pines or any station north thereof be handled from Hamlet by truck, forcing the continuation of peddler or local package cars. The effect on the time of delivery of the shipment to Aberdeen would be, if handled by truck from Hamlet, leave Hamlet at 3:35 A. M., [fol. 1769] arrive Aberdeen 11:30 A. M., to 12:30 P. M. A shipment from Hamlet to Southern Pines, if handled by truck, would arrive Southern Pines 4:45 A. M.; if by train, at 12:30 to 4:30 P. M., destined to Sanford, would arrive at Sanford by truck at 6:35 A. M. If a local package car were loaded at Hamlet for Sanford it would leave Hamlet by train at 5:40 A. M. and arrive at Sanford 9:25 A. M. If this car were operated it would contain freight destined to stations contiguous to Sanford served by the Pittsboro-Sanford switcher, such as Pittsboro, Moncure and Colon, and a shipment destined to Pittsboro would be moved from Sanford by this switcher at 3:30 to 5:00 P. M., arriving at Pittsboro at 6:00 to 8:00 P. M., whereas, if handled by truck from Hamlet, it would arrive Pittsboro at 7:15 A. M.,——

Q. You mean the previous morning?

A. No. The same morning arrive at 7:15, as compared with 8:00.

Q. I am trying to show the morning of the same day.

A. That is right, the same day in other words, it would be delivered in the morning by the truck and not after *not after* closing hours by the train.

Q. Proceed.

A. —effecting a twenty-four hour earlier delivery. These examples could be multiplied by the number of key stations shown on this route between Raleigh and Hamlet.

[fol. 1770] Outbound from this territory the truck could not handle shipments through to either Raleigh or Hamlet, but would be compelled to unload at each key station, forcing the continuance of local package or peddler cars and the consequent delay to the freight.

Q. When you stated, Mr. Arnold, that the truck could not handle shipments outbound from this territory through to either Raleigh or Hamlet, you are excepting, I presume, those stations intermediate between the terminal points and the nearest key station, are you not, for example. Will the truck Company pick up a shipment at Cary and carry it to Raleigh or could it pick it up at Hoffman or Marston and carry it through to Hamlet.

A. That is correct, but the truck could not pick up a shipment say at Cameron or Moncure and carry it to either Raleigh or Hamlet.

Q. In other words, on the outbound movement the key stations restrictions as now imposed would prevent the handling of outbound movements by truck from by far the larger proportion of the stations on this route.

A. That is all the way through from Raleigh to Hamlet. That would make it necessary to provide some means by cars to get the outbound shipment from these key stations into Raleigh or Hamlet for transfer to other package cars at those points.

[fol. 1771] Q. One of the primary purposes to be accomplished by this service I take it is the elimination of peddler cars or peddler movement by local train.

A. That is correct.

Q. You stated, Mr. Arnold, that local package cars are now loaded from Raleigh to Apex, Sanford and Aberdeen, from Hamlet to Aberdeen and Sanford, and from Sanford

to Raleigh, Hamlet and Pittsboro, all points on the Hamlet-Raleigh route. Bearing in mind that the restrictions imposed upon these truck operations are based upon the theory that when through package cars are operated between two points there is no need for truck service, will you explain why the use of the package cars mentioned to the exclusion of the trucks will not or cannot provide satisfactory transportation service on this route?

A. First, let me say that my conception of through package cars are those cars which are operated between territories of production and large centers of distribution or to transfer points where l. c. l. traffic is available in sufficient volume to permit the consolidation of numbers of shipments into carloads for movement overhead in through trains, such as the cars I have mentioned moving from Chicago and other large centers to Hamlet Transfer, or from Richmond and Portsmouth to Raleigh.

I do not think that it is proper to regard a car loaded [fol. 1772] at Hamlet Transfer and moved to Aberdeen on a local switcher, a distance of only twenty-four miles, as a through package car. I have already explained how and why these local package cars are moved to several points between Raleigh and Hamlet, namely to place the l. c. l. freight at points convenient for distribution to destination by the local switchers. They are therefore in reality local peddler cars rather than through package cars, and as such can and will be largely dispensed with through the operation of the truck service.

Q. What package cars would be operated notwithstanding the truck service?

A. We would continue, however, to operate through package cars from Hamlet to Raleigh, from Raleigh to Hamlet, and, of course, continue the through package cars into Hamlet from distant points and into Raleigh from Portsmouth and Richmond, possibly combining the through package cars now operated from Portsmouth and Richmond to Sanford and Aberdeen with the cars operated from Portsmouth and Richmond to Hamlet and Raleigh.

Q. Since we will continue to operate the through package car between Raleigh and Hamlet in both directions can we use these cars for handling shipments moving between those two points to the exclusion of the trucks?

A. Yes, we would not object to a restriction which would [fol. 1773] prohibit the use of our trucks for handling traffic from Hamlet or points south thereof to Raleigh or points north thereof, or from Raleigh or points north thereof to Hamlet or points south thereof.

Q. From your last statement, Mr. Arnold, I understand that you are referring to less than carload shipments which are moving either all the way from Hamlet to Raleigh or beyond, or in the reverse directions from Raleigh to Hamlet, or over that route in overhead movement from points beyond either Hamlet or Raleigh.

A. That is correct.

Q. But you do not mean to state that a restriction which would prohibit us from handling by truck less than carload shipments moving from Hamlet to a point south of Raleigh or from Raleigh to a point north of Hamlet would be excepted.

A. That should not be restricted.

Exam. Livingstone: We will take a short recess at this time.

(A short recess was taken.)

Exam. Livingstone: Proceed.

Q. Will you now discuss the route between Hamlet, N. C., and Columbia, S. C., Docket MC 86687, Sub 3.

A. It is necessary for me to combine for discussion Sub 3, Hamlet to Columbia, and Sub 1, McBee-Sumter, as the key [fol. 1774] station restrictions on the Hamlet-Columbia route affect the movement of traffic to and from the McBee-Sumter route. These two routes are now in operation. There are no key station restrictions on the McBee-Sumter route.

The key stations designated on the Hamlet-Columbia route are Hamlet, Cheraw, McBee and Columbia.

Regular through package cars are operated only from Hamlet to Columbia, Hamlet to Hartsville and Columbia to Hamlet and Hartsville to Hamlet.

By Mr. Abeles:

Q. Mr. Arnold, are there any key station restrictions on the McBee-Sumter route?

A. I stated there were no restrictions but as a matter of fact McBee has been named as a key station and it is the junction point with the McBee-Sumter route.

Q. However there are no other key stations named on the McBee-Sumter route?

A. That is correct.

Q. The mere naming of a single key station on that route would not in any way restrict the full use of the trucks on that route would it?

A. It would restrict the purpose for which this route was designed as I will explain a little later.

Q. Considering the McBee-Sumter route by itself, there are no restrictions on the full use of the truck to and from and between points on that route?

[fol. 1775] A. That is correct.

Q. Proceed please.

A. No cars are loaded at either Cheraw or McBee for any other point or from Columbia to McBee, Cheraw, or any other point on these routes, except to Hamlet. Hamlet also loads a local package car to Cheraw.

As I have previously stated, Hamlet is the principal transfer point for l. c. l. freight on the Seaboard and receives a large number of package cars from northern, eastern, and western centers of distribution, also that package cars are operated from Charlotte to Hamlet, leaving Charlotte at 10:30 P. M., arriving Hamlet at 2:40 A. M., and these routes were designed to coordinate with these package cars from Charlotte, leaving Hamlet at 4:30 A. M., and these routes were designed to coordinate with these package cars from Charlotte, leaving Hamlet at 4:30 A. M., and handling this traffic through to Columbia, Hartsville and other points on these routes for early morning deliveries.

Q. When you refer to these schedules, you are talking about the schedules from Hamlet are you not?

A. I spoke of the package car schedule from Hamlet to Hamlet.

Q. I understand the schedules from Hamlet to which you have just referred are the truck schedules.

[fol. 1776] A. Leaving at 4:30 A. M., is the truck schedule, that is correct. The key station restrictions would immediately block the handling of these shipments by truck from Hamlet to Cheraw or any point south of Cheraw, thus requiring them to be held at Hamlet for handling on the

train leaving Hamlet at 10:45 P. M. the following evening, thus delaying their delivery twenty-four hours.

While Hamlet loads through package cars to Columbia and Hartsville and a local package car to Cheraw, these cars are loaded with traffic arriving at Hamlet at different hours during the day in time to leave on the train at 10:45 P. M. and reach Columbia and Hartsville at 7:00 A. M., and 10:45 A. M., respectively, and the car for Cheraw moves on local switcher in time to reach Cheraw at 10:00 A. M. However, all freight from Hamlet and all other points on these routes is handled by the truck making unnecessary the operation of peddler cars or other set-out cars.

Q. You mean by that, Mr. Arnold, freight other than that which is handled on the package cars which you have just mentioned do you not?

A. I don't know as I understand what you mean, but this——

Q. Mr. Abeles: Strike that question. I don't think that is necessary.

The witness: I mean from Hamlet and all other points.

By Mr. Abeles:

Q. You stated, I believe that a package car was operated [fol. 1777] from Hamlet to Cheraw. Why could not the shipments for points south of Cheraw from Hamlet be loaded in this car for distribution from Cheraw by truck?

A. First, because we would be stopped again by the designation of McBee as a key station. Second, this package car is pulled from the warehouse during the evening prior to the arrival of the package cars from Charlotte and could not, therefore, handle those shipments, and, third, this car does not arrive at Cheraw until 10:00 A. M., whereas the truck passes there at 5:20 A. M. Obviously, to prohibit the handling by truck between Hamlet and Cheraw would delay these shipments twenty-four hours.

Q. Why could not the train that handles the package cars to Columbia and Hamlet handle all of the traffic out of Hamlet for points on these routes?

A. This train leaves Hamlet at 10:45 P. M. As I have previously stated, the package cars from Charlotte do not arrive until 2:40 A. M., missing this connection. Further, this train does not handle a peddler car, which would be necessary if the truck is not permitted to handle all of the

local traffic from Hamlet as well as the shipments in the Charlotte-Hamlet package car, to all points on the route, including Columbia, Cheraw and Hartsville.

No regular package cars are loaded from Columbia to any points on these routes, except to Hamlet. The train on which this package car moves leaves Columbia at 3:40 [fol. 1778] P. M., which is too early to receive all the day's loading. The truck leaves Columbia at 7:00 P. M. and handles the business for Hamlet and beyond which has been received too late to move in the package car leaving at 3:40 P. M., and if the use of the truck for these shipments is prohibited they would remain at Columbia until the following afternoon, delaying the movement twenty-four hours. On business from Columbia and other stations on these routes the restrictions would prevent handling by truck to McBee or beyond, which would make it necessary to put on peddler cars that are now operated.

Q. Unless the restrictions resulting from the key stations designated on these routes are removed, will additional peddler cars be required?

A. A peddler car would be required each way between Hamlet and Columbia, and one between McBee and Timmonsville and return.

Q. I understand from what you have said, Mr. Arnold, that in order to accomplish the purposes and benefits of our truck operations along these routes, it will be necessary to eliminate the restrictions entirely?

A. Yes.

Q. Will you now discuss the route between Hamlet, N. C., and Wilmington, N. C., Docket MC 86687, Sub 5.

A. This route is not in operation.

[fol. 1779] Hamlet, Laurinburg, Maxton, Pembroke, Lumberton, Bladenboro, and Wilmington have been designated key stations on this route. The distances between these stations are as follows:

Hamlet to Laurinburg	16 miles
Laurinburg to Maxton	7 miles
Maxton to Pembroke	10 miles
Pembroke to Lumberton	11 miles
Lumberton to Bladenboro	14 miles
Bladenboro to Wilmington	53 miles
Hamlet to Wilmington	111 miles

Mr. Beall: Will you permit a question here for the purpose of clarification?

Mr. Abeles: Surely.

Mr. Beall: In the map which was filed with the Seaboard's petition the legend states that certain numbers represent the number of intermediate stations as between key stations and for illustration you showed twenty-two as being the number of intermediate stations between Henderson and Petersburg whereas the map that has been offered here as exhibit number one shows only about twelve. I notice similar discrepancies throughout the testimony here. Can you enlighten us with respect to that?

Mr. Abeles: Well on this map, the map attached to the petition, includes all tariff points, a number of those are not [fol. 1780] agency points. Several of them are non-agency stations or blind-sidings or what not, whereas this map, the map offered in exhibit here this morning included only agency stations.

Mr. Beall: That clears up any trouble in following your testimony.

Mr. Abeles: Let me ask one more question in that connection, Mr. Arnold, does the truck serve the non-agency stations which are included in the numerical designation on the map attached to the petition, but which are not shown on map exhibit one.

The Witness: There would be occasional cases where some non-agency point there had been some l. c. l. traffic but that is handled by what we call a governing agency which is often the nearest agency station on either side of the non agency point.

Mr. Abeles: To all practical purposes only the agency stations as shown on map exhibit one are served by the truck operation, those would be the only ones of any moment. Some of the points on here might be points at which no l. c. l. freight is delivered. Does that clear up the discrepancy?

Mr. Beal: That clears up the discrepancy, yes, sir. Thank you.

The witness: This is one of the routes out of Hamlet which I have previously explained was designed to coordinate with the through package cars moving out of Charlotte at 10:30 P. M., arriving Hamlet at 2:40 A. M. The truck from Hamlet to Wilmington is scheduled to leave

Hamlet at 4:00 A. M., and arrive Wilmington 9:00 to afford early morning delivery to all points between Hamlet and Wilmington.

Through package cars are operated to stations on this route only from Hamlet to Wilmington and Wilmington to Hamlet. Local package cars are operated from Hamlet to Laurinburg, Lumberton, and Bladenboro, but none from these points. There are no local package cars operated from Wilmington daily.

Mr. Smiley: We want to object to any further testimony concerning routes which this carrier has not operated, evidently this carrier has made no effort to furnish the public with the service which we presume they proved was necessary to the public convenience and necessity, almost two years ago. Now the proposition here is purely hypothetical. They have no actual experience to go on. They don't know whether this route will work with key points or not. If it is a proposition here of showing that the public convenience and necessity can only be served if the premises of their original cars were changed, then I think we ought to get that in issue right now so that we will know whether our actions have to do with new public convenience and necessity or merely carrier necessity before [fol. 1782] they even attempt serving the public.

Exam. Livingstone: Your position is noted on the record. The objection is overruled.

Mr. Smiley: Exceptions please.

Mr. Abeles: One moment——

Mr. Inglis: I might say that I take the same position and I took it in my petition for modification.

Mr. Abeles: Proceed.

The Witness: Except very occasionally when required for an exceptionally heavy movement, no set-out or package cars are operated to our—from Maxton or Pembroke, and these points should be eliminated as key stations for that reason alone.

I will state here again that Hamlet is the principal transfer point for l.c.l. freight on the Seaboard to which, as I have previously explained, through package cars are loaded from numerous on-line and off-line points. Some of these through package cars contain freight for stations from Hamlet to and including Wilmington, but under the restrictions imposed, this freight, particularly that received from

the Charlotte package cars with which the truck service on this route was designed to coordinate, could not be moved by truck from Hamlet any farther than Elmore, 12½ miles from Hamlet, and the distribution of all of this through package car freight from Hamlet to points on this [fol. 1782] route is absolutely stopped. There would be no advantage in loading the freight at Hamlet in cars and moving to Laurinburg for distribution thence by truck, as the very next station, Maxton, only seven miles from Laurinburg, is likewise named a key station and then freight could not, therefore, move by truck from Laurinburg. There would be no advantage in loading in cars and moving to Pembroke for distribution thence by truck, for we would again be stopped by the key station at Lumberton, eleven miles from Pembroke.

So far as Laurinburg, Lumberton, Bladenboro, and Wilmington are concerned, satisfactory delivery can be made of freight which accumulates at Hamlet during the day by forwarding these shipments from Hamlet in Train 78 leaving Hamlet at 11:15 P. M., arriving at Laurinburg 12:15 A. M., Lumberton 1:30 A. M., Bladenboro 2:15 A. M., and Wilmington at 6:30 A. M., and local package cars may be continued in operation from Hamlet to Laurinburg, Lumberton, and Bladenboro and through package cars from Hamlet to Wilmington after inauguration of truck service on days when there is sufficient accumulation of such tonnage to justify the operation of such cars.

Q. Then why could not the train that would handle these cars handle all of the traffic out of Hamlet for all points on this route?

A. This train is scheduled to leave Hamlet at 11:15 P. M. [fol. 1784] As I previously stated, the package cars from Charlotte do not arrive until 2:40 A. M., missing this connection. Further, this train does not handle a peddler car, is on a through schedule, does not perform local service and stops at only the setout points. The distribution of freight to stations intermediate between these points is performed by local freight train, which arrangement it would be necessary to continue if the truck operation is not permitted without existing restrictions. The local train leaving Hamlet at approximately 7:00 to 9:00 A. M., and working to Lumberton, 44 miles from Hamlet, now does all of the switching and peddling of l.c.l. freight between

Hamlet and Lumberton and arrives Lumberton from 1:00 to 4:00 P. M. The truck leaving Hamlet at 4:00 A. M. and arriving Lumberton 5:55 A. M. would, therefore, advance the delivery of the freight to all local points between Hamlet and Lumberton, as compared to the deliveries now made by this local freight. From Lumberton to Wilmington the local switching and peddling of l.c.l. freight is performed by local freight leaving Lumberton at noon or later, arriving Wilmington 5:00 P. M. or later. This train now distributes the l.c.l. freight for all local points from the local package cars moving from Hamlet and set out at Lumberton and Bladenboro, effecting late afternoon deliveries, whereas the truck passing Lumberton at 5:50 A. M. and arriving Wilmington 9:00 A. M. would provide early [fol. 1785] morning delivery to all points, and dispense with the peddler cars now used.

Q. May I interrupt a minute. Taking it from what you have just said I take it the uses of the truck service on the eastbound movement on this route would accomplish two main purposes, namely, it would handle the business received at Hamlet in the package car from Charlotte which could not be handled, which doesn't get to Hamlet in time for the train now operating on this route. It would advance all local shipments to points on this route by twenty-four hours, is that correct, summarizing what you have just said.

A. Well I don't — that is entirely correct. It would not advance the delivery twenty-four hours to all points on the route.

Q. All points except those to which package cars are now operated?

A. No. It would effect between Lumberton and Wilmington very early in the morning as against very late evening delivery which is in effect twenty-four hours earlier delivery from Lumberton to Wilmington.

Q. Perhaps we had better clear that up. When a shipment is delivered in the early morning as against late afternoon. You have been referring I understand to that as twenty-four hour advance.

A. In the delivery of the freight to the customers.

[fol. 1786] Q. Perhaps you had better explain that now at this point, why do you say it is a twenty-four hour.

A. The explanation of that is this. If a shipment would arrive at a station say from 8:00 to 10:00 A. M. I would

say that was an early morning delivery. If it arrived from 5:00, 6:00 or 7:00 P. M., that is usually after business hours and it either isn't delivered or it is delivered to the man too late for the days business and makes as far as he is concerned a twenty-four hour later delivery.

Q. In other words, if it isn't delivered to him until late afternoon it might as well be delivered to him the following morning.

A. The next morning, that is right.

By Mr. Abeles:

Q. Will you now discuss the movement from Wilmington to Hamlet?

A. (The witness:) Let me say before we go into that, you are talking about twenty-four hour earlier delivery. We must not overlook the Charlotte package car arriving at Hamlet 2:40 A. M. after this train is gone.

Q. I think I mentioned that in my question, now will you discuss the movement from Wilmington to Hamlet.

A. The package car loaded at Wilmington for Hamlet is moved from Wilmington on train 77, scheduled out of Wilmington at 6:00 P. M. This train has very important connections at Hamlet for carload traffic northbound on [fol. 1787] trains 88 and 80 leaving Hamlet in the early morning, and in order to make these connections must arrive Hamlet not later than 3:30 A. M. It is frequently the case that this train leaves Wilmington before the package car is ready and under those conditions this car is handled on train 79 scheduled to leave Wilmington 12:30 A. M. and arrive Hamlet at 5:00 A. M. The departure of this train No. 79 from Wilmington, however, is actually anywhere from midnight to 4:00 A. M., depending upon receipt of oil shipments at Wilmington, and arrives at Hamlet usually 7:00 to 9:00 A. M. It is important that the oil shipments from Wilmington on No. 79 make connection with trains leaving Hamlet in the morning, including the switchers to the contiguous territories. Trains 77 and 79 are through trains and do not peddle l.c.l. freight, and no local trains operate westbound from Wilmington to Hamlet. The truck scheduled to leave Wilmington at 5:30 P. M., arriving Hamlet 10:30 P. M., would do all of the local picking up from Wilmington to Hamlet, now performed only by the eastbound locals, thus materially advancing this freight.

Q. You say that all of the local pick-up from Wilmington to Hamlet is now performed only by the eastbound locals? That applies does it not to shipments originating at points on this route and moving westbound to Hamlet as well as to shipments moving eastbound to Wilmington does it not?

[fol. 1788] A. That is correct.

Q. How are those westbound shipments handled after they are picked up by the local and delivered, I presume, at Wilmington.

A. A local carries the car to Wilmington. That same crew comes back on number 79.

Q. Which you have stated is not a peddler train?

A. Not a peddler train, but he brings that car to Hamlet and it is backhauled again from Hamlet on the locals.

Q. In other words, if a shipment originates for example —I was speaking of the intermediate stations.

A. Yes, if it is going beyond Hamlet, of course it goes beyond Hamlet, it is not backhauled anymore.

Q. A shipment originating for example Clarkton consigned to Elmore in picked up by the eastbound local, carried to Wilmington, then carried back to Hamlet on train 79?

A. Yes.

Q. Then again backhauled to destination, is that correct?

A. On the local out of Hamlet that morning.

Q. Whereas if the truck was in operation it could be carried directly from Clarkton to destination.

A. That is right.

Mr. Crimm: May I ask you solely an intra-state shipment from Clarkton to Elmore?

Mr. Abeles: That particular movement would be.

[fol. 1789] Mr. Crimm: Which would have no application in this proceeding.

Mr. Abeles: That is correct.

Q. I understand from what you have said that in order to accomplish the purpose and benefits of our truck operation along this route it will be necessary to eliminate the restrictions entire ?

A. Yes, unless it be a restriction only prohibiting the movement by truck from Wilmington to Hamlet and points beyond Hamlet, or from Hamlet to Wilmington, of l.c.l. freight accumulated at Hamlet during the day prior to the departure of train 78.

Q. Why do you not include such freight, i.e., freight accumulated at Hamlet during the day, consigned to Laurinburg, Lumberton, and Bladenboro?

A. Because the use of the truck in handling this movement will frequently enable us to dispense with the local package cars now operated from Hamlet to those points. In fact, we expect to eliminate the Bladenboro car entirely, and also the peddler cars on the locals.

Q. In other words, Mr. Arnold, as I understand the mere fact of the operation of what you have called local package cars does not mean that if we are permitted to use our trucks in the way in which we regard as efficient and effective, we would not be able to eliminate many of these local [fol. 1790] package cars, is that correct?

A. In a number of instances not entirely, yes in a number of instances.

Q. Please now take up your discussion of the route between Monroe, N. C., and Waxhaw, N. C., Docket MC 86687 Sub. 15.

A. While no key stations on the Monroe-Waxhaw route have been named, other than Monroe, this is operated as a twelve mile extension of the route between Hamlet and Monroe, MC 86687, Sub Nos. 20 and 28. A hearing on the latter route was held on March 31, 1941, and a brief was filed in that proceeding on April 28, 1941. If Hamlet and Monroe are designated as key stations the resulting restriction on the Hamlet-Monroe route would prohibit the handling by truck of traffic from Hamlet through Monroe to Waxhaw, resulting in requiring this traffic to be loaded in package cars from Hamlet to Monroe and there transferred to the truck for handling to Waxhaw. The additional handling at Monroe would therefore be all that would be accomplished.

To require the use of the package car operated from Monroe to Hamlet for the handling of traffic moving eastbound from Waxhaw to Hamlet would seriously disrupt the existing service. Practically none of this traffic is consigned to Hamlet as the destination point, most of it moving either to northern points or to points south of Hamlet. [fol. 1791] The truck is scheduled to make connections at Hamlet with through north or southbound trains. The package car from Monroe to Hamlet, however, does not arrive at Hamlet in time to make these connections, and

consequently if these shipments could not be handled by truck from Waxhaw to Hamlet, a 24 hour delay would result.

Q. I take it from what you have said Mr. Arnold the truck between Hamlet and Monroe is now operating.

A. It is in operation between Hamlet and Waxhaw.

Q. Will you now discuss the route between Monroe, N. C., and Rutherfordton, North Carolina, Docket MC 86687, Sub 6.

A. Monroe, Charlotte, Lincolnton, Shelby, and Ellenboro have been designated as key stations on this route. The distance between these points is as follows:

Monroe to Charlotte	22 miles
Charlotte to Lincolnton	34 miles
Lincolnton to Ellenboro	36 miles
Ellenboro to Rutherfordton	13 miles
Total distance—Monroe to Rutherfordton	105 miles

Q. I think inadvertently you have left out Shelby in that enumeration. Do you happen to know the distance between Lincolnton and Shelby?

A. That can be supplied but Shelby is between Lincolnton and Ellenboro.

[fol. 1792] Q. About half way.

A. Approximately so.

Q. Proceed.

A. Package cars are operated on this route from Monroe to Charlotte, and from Charlotte to Monroe. Local package cars are operated from Charlotte to Lincolnton and Shelby containing freight for distribution from those points to the adjacent stations by local switchers. There are no through connecting local train schedules on this route, which is a situation similar to that which I described on the Raleigh-Hamlet route. These local package cars are tantamount to peddler cars, and will be largely eliminated when the truck service is operated.

No package cars are loaded at Lincolnton, Shelby or Ellenboro for any points on these routes. The restriction of the use of the truck for traffic originating at Lincolnton, Shelby or Ellenboro would therefore compel the continu-

ance of the use of peddler cars for the handling of l. c. l. business.

Q. You stated that we operated a package car from Monroe to Charlotte. To what extent would the operation of this package car dispense with the use of the truck from Monroe to Charlotte?

A. This service is designed so that freight from interstate points east of Monroe will be loaded to Monroe and [fol. 1793] arrive there at the latest on train No. 95 at 2:30 A. M., to be distributed from there to all points on this route by truck for early morning delivery. The package car from Monroe to Charlotte is a combination with the car arriving at Monroe at 8:45 A. M. from west of Monroe on the Georgia Division, including Atlanta, into which the Monroe freight for Charlotte is also loaded. This car does not leave Monroe until around 10:00 to 11:00 A. M., and arrives Charlotte 11:00 A. M. to 12:00 Noon, whereas the truck will be scheduled to leave Monroe at 3:00 A. M., and if the freight were loaded in this package car, it would be delayed at Charlotte twenty-four hours.

Q. You stated that we operated a package car from Charlotte to Monroe. To what extent will the operation of this package car enable us to dispense with the use of the truck from Charlotte to Monroe?

A. The truck service on this route was planned to transfer from the truck to package cars at Monroe all interstate traffic originating on this route consigned to interstate destinations beyond Monroe. The package cars loaded at Charlotte are closed at 6:00 P. M. The truck will arrive at Charlotte at 8:15 P. M., after the package car has been loaded and sealed and transferred to the yard. Consequently, to transfer this interstate freight from the truck to the package cars at Charlotte would require an entirely [fol. 1794] new operating set-up both with respect to the warehouse and yard at that point, or to compel it to lay over at Charlotte for twenty-four hours, whereas we already have the necessary operating arrangement effective at Monroe to make this transfer, and this point is only twenty-two miles from Charlotte. Hence to avoid a disruption of the operating arrangement effective at Monroe to make this transfer, and this point is only twentytwo miles from Charlotte. Hence to avoid a disruption of the operating arrangements at Charlotte or a twenty-four hour delay in

the handling of this business these shipments must be carried through Charlotte to Monroe by truck. On interstate business originating at Charlotte which has come into Charlotte in package cars or received from connections the package car now moving from Charlotte to Monroe and Hamlet will be used. Traffic originating at Monroe for interstate destinations west of Charlotte could be handled to Charlotte as effectively by the Monroe to Charlotte package car as by truck. Interstate shipments coming into Charlotte in the through package cars which are operated to Charlotte from Chicago, Cincinnati and other western points, and in through package cars from Richmond and Portsmouth destined to stations on this route between Charlotte and Rutherfordton, which latter will be loaded to Monroe with inauguration of the truck service, would be [fol. 1795] stopped as to distribution by truck from Charlotte or Monroe with the presently designated key station restrictions, because with Charlotte designated as a key station, we would be able to handle from Monroe by truck only as far as Matthews, 13 miles, and with Lincolnton designated as a key station, we would be able to handle by truck from Charlotte only as far as Stanley, eighteen miles from Charlotte, and there the use of the truck would be stopped and the continuance of set-out and peddler cars for this distribution service would be compelled.

Q. What, if any, restrictions on the use of trucks over this route would not materially impair the effectiveness of the coordinated service?

A. We would not object to a restriction prohibiting the use of the truck for handling shipments (1) from Charlotte to Monroe and points beyond not originating at points between Charlotte and Rutherfordton, or (2) from Monroe to Charlotte except freight destined to points on this route between Charlotte and Rutherfordton.

Q. Would there be any saving in peddler or local package cars accomplished by truck operation between Monroe and Rutherfordton?

A. Yes. We would save the local package cars to Lincolnton and Shelby or an equivalent number of peddler cars on the switchers.

[fol. 1796] Q. Now proceed with the discussion of the route between Gaston, South Carolina and Garnett, South Carolina, Docket MC 86687.

A. This route is in operation. The restriction placed upon the operation of this route prohibits the use of the truck directionally, that is, on the southbound movement, no traffic may be handled by truck from Gaston to Swansea, North, Denmark, Fairfax or Garnett, and northbound, no traffic may be handled by truck from Garnett to Estill, Fairfax, Denmark and Gaston.

No package cars are operated from any point on this route to any other point on the route. There is a package car loaded at Hamlet, N. C., to North, S. C., containing freight for distribution to all stations on this route, Gaston to Garnett, inclusive. There is a car loaded at Columbia, S. C., which sets out at North, containing freight for distribution to all points on this route. There is a car loaded at Savannah, Ga.; containing freight for distribution to all points on this route. The truck distributes the freight from cars set out at North to all points, including Gaston and Garnett. At the present, car loaded at Savannah does not make connection with the truck at Estill and this freight is put off at destinations on the route by train 76, which handles this car from Savannah. The truck does all of the picking up at all points on the route, the north-bound [fol. 1797] freight being loaded on train 76 at North and the southbound freight on train 75 at Estill.

Q. You mean the truck picks up the traffic on route, takes it to North and Estill where it is picked up by the local freights respectively in each direction.

A. That is right.

Q. Proceed.

A. Since the restriction operates only to prohibit the movement by truck of shipments from Garnett and Gaston, the handling of inbound movements is not prejudiced. However, shipments originating at Garnett or Gaston are affected. For example, on August 6, 1941, a shipment was made from Gaston to Williamsburg, Pa. It moved by truck from Gaston to North and was there loaded on a car for movement north. The existing restrictions on this route, however, would prohibit the handling of l. c. l. movements from Gaston to North, and consequently the northbound train would have had to stop at Gaston and pick up this shipment. In other words, the only effect of the key station restrictions on this route is to compel the trains to make additional stops at Gaston and Garnett to pick up shipments

consigned from these two points to interstate destinations, and it seems reasonable to ask for removal of the restrictions.

Q. You have stated, Mr. Arnold, that the particular shipment that you used for illustrative purposes was actually [fol. 1798] moved from Gaston to North, by truck. It is your understanding is it not that the key stations restrictions are not yet effective that the order imposing them has been suspended?

A. That is correct.

Q. That we could consequently handle that particular shipment in this way?

A. That is true.

Q. Without violating any conditions?

A. Yes, sir.

Q. Now proceed with the discussion of the route between Greenwood, South Carolina, and Great Falls, South Carolina, Docket MC 86687 Sub 8.

A. This route is now in operation. The key stations named on this route are Greenwood and Clinton.

No package cars are operated to or from Clinton. No package cars are operated from Greenwood to any point on this route, and there are no package cars operated to or from any other points on this route, except Chester, which receives package cars from Portsmouth, Va.

Clinton is not a transfer point. Greenwood is a transfer point and receives package cars from distant cities for distribution to stations on this route. Considerable l. c. l. freight is also received from Connections at Greenwood destined to points on this route.

This route does not connect with any other truck route, [fol. 1799] and the only effect of the restriction is to prevent the handling of shipments from Greenwood to Clinton and Clinton to Greenwood by truck. Clinton is only twenty-five miles from Greenwood, so that shipments from Greenwood to Chester, Great Falls or other stations north of Clinton could be handled from Greenwood by truck only to Cross Hill, a distance of only 14 miles.

If the restrictions resulting from the presently designated key stations on this route are to be retained the distribution of freight to local points on this route could only be performed in the following manner:

There is no local northbound train operating from Greenwood, and consequently l. c. l. shipments accumulated at Greenwood from interstate origins destined to stations intermediate between Greenwood and Chester, except Clinton, would have to be carried by car to Chester and from there peddled by the local train operating southbound. This train does not pass Chester until 5:00 P. M., or later, and the delivery of this freight would thus be delayed twenty-four hours as compared with the present service by truck.

Clinton is of much importance that this twenty-four hour delay would have to be eliminated by the operation of another car to Clinton from Greenwood.

The traffic for Great Falls would have to be loaded in a package car now operating from Greenwood to Monroe and Back-hauled to Catawba, the junction point on the main line with the Great Falls Branch, on the local leaving Monroe [fol. 1800] at 10:30 A. M. and connecting with the branch line train to Great Falls, leaving Catawba at 3:00 P. M. or later, arriving Great Falls 4:30 P. M. or later. This traffic would also thus be delayed twenty-four hours.

Q. Will you now state, Mr. Arnold, what additional cars will have to be operated if the key station restrictions now imposed upon this truck service are not removed?

A. As I have just said, it would be necessary to operate two additional cars, one to Clinton and one to Chester.

Q. Do you think that the removal of the restrictions upon the operation of this truck is necessary?

A. Yes, it is absolutely necessary if the benefits of the coordinated service are to be realized.

Q. Now proceed with the discussion of the route between Jacksonville, Fla., and Fernandina, Fla., Docket MC 86687 Sub 18.

A. This route is in operation. No key station restrictions have been imposed upon it.

This truck delivers l. c. l. freight from Jacksonville to Yulee and Fernandina. Yulee is twenty-two miles north of Jacksonville and Fernandina is twelve miles east of Yulee, the total distance from Jacksonville to Fernandina being thirty-four miles.

Jacksonville is a large transfer point for l. c. l. freight received in package cars from northern, eastern, and western points and from coastwise steamer lines. These cars [fol. 1801] and steamers arrive at Jacksonville at different

times during the day and freight is transferred at that point for forwarding in package cars and trucks.

The truck for Fernandina leaves Jacksonville at 6:30 A. M. passes Yulee at 7:30 A. M., and arrives Fernandina at 8:00 A. M., affording early morning delivery of all of this l. c. l. freight. There are no package cars loaded from Jacksonville to Fernandina, or vice versa, and no peddler cars operated between these points. There is, therefore, no conceivable reason for the imposition of any restrictions upon the full use of the truck on this route.

Q. Now proceed with the discussion of the route between Jacksonville, Fla., and Live Oak Fla., and between Live Oak, Fla., and River Junction, Fla., Docket MC 86687, Subs 9 and 10, explaining why you are dealing with these two routes together.

A. These two sub numbers cover one coordination through route between Jacksonville and River Junction.

The key stations named on this route are Monticello, Tallahassee, Quincy and River Junction. Incidentally, the name of River Junction, effective August 15, 1941, was changed to Chattahoochee by legislative action, but to avoid confusion I shall continue to refer to it as River Junction.

With reference to the key stations named there are no [fol. 1802] package cars operated to or from Monticello, which fact should eliminate that point as a key station.

As already stated, Jacksonville is one of our largest transfer points, receiving package cars from the large northern, eastern and western cities and from coastwise steamer lines serving that port. Package cars are loaded daily by Jacksonville for Lake City, Live Oak, Madison, Tallahassee, Quincy and River Junction. These cars however, contain no freight for intermediate points. The l. c. l. freight from Jacksonville destined to intermediate points is handled by the truck from Jacksonville.

Q. These routes are now in operation by truck are they Mr. Arnold?

A. Yes, sir.

Q. Proceed.

A. In other words, the truck does all of the peddling and picking up, including also the picking up of all westbound shipments from Lake City, Live Oak and Madison, set out points for the Jacksonville package cars. No peddler cars are operated over this route.

The package cars loaded at Jacksonville close at 5:00 P. M. for movement from Jacksonville on Train 83 at 8:00 P. M., and are set out by this train at Lake City at 11:30 P. M., Live Oak at 1:00 A. M., Madison at 2:20 A. M., and at Tallahassee at 5:00 A. M. The package cars loaded by [fol. 1803] Jacksonville for Quincy and River Junction are also set out at Tallahassee by Train 83 and are moved from there by No. 83's connection for River Junction at approximately 9:00 A. M. arriving Quincy at 10:00 to 11:00 A. M., and at River Junction from 11:00 A. M. to 1:40 P. M., or the car for Quincy may be handled on the Quincy switcher leaving Tallahassee from 8:00 to 9:00 A. M., arriving Quincy from 10:00 to 11:00 A. M.

While package cars are operated from Jacksonville to the points named, due to the early closing hours necessary for the package cars, freight is received for truck movement up to 7:00 P. M., which enables the truck to handle shipments consigned to these set out stations received too late, or not ready for forwarding in the cars, advancing the movement of that freight twenty-four hours. For that reason to prohibit the use of the truck for the handling of shipments moving from Jacksonville to these points would delay the delivery of some of the business consigned to them.

Q. At this point, Mr. Arnold, it may be suggested that shipments moving, for example, from Jacksonville to Wellborn, the first station beyond Lake City, could be handled from Jacksonville to Lake City on the package car set at that point and then picked up by the truck and delivered to Wellborn; or that a shipment from Jacksonville to Lee could be handled from Jacksonville to Lake City on the [fol. 1804] package car set out at Live Oak, picked up by the truck at Live Oak and carried to Lee? Will you state whether this is a practicable method of handling such business?

A. It is not practicable, first, because the truck is moving ahead of the train. In other words, the truck leaves Jacksonville at 7:00 P. M., and Train 83 leaves Jacksonville at 8:00 P. M. The truck passes all of these set out points prior to the arrival of the train. Second, even if this were not the case there are no night station forces at these points to unload the cars.

Q. How do you explain your statement that the truck runs ahead of the train on this route, whereas you have

stated that the freight may be received at the Jacksonville warehouse for the truck some two hours later than for the package cars?

A. Simply because the truck leaves directly from Jacksonville warehouse, whereas the package cars must be moved from the warehouse to the yard, some three miles, through a very congested terminal area, to be switched into the train, and the train actually leaves Jacksonville one hour later than the truck.

Q. And runs behind the truck all the way along this route?

A. That is correct.

Q. Will you now take up the key stations named on this route and discuss the effect of the resulting restrictions [fol. 1805] upon the use of the truck upon the movement of traffic from Jacksonville along this route?

A. If the stations named are retained as key stations, with present restrictions, the result would be that freight loaded on the truck at Jacksonville, or at any point east of Monticello, destined to Tallahassee or any point west or north thereof, could be handled by truck only to Lloyd or Perkins, and there unloaded, making it necessary to transfer from truck to car, requiring an additional stop for a train which does not do local work, or else seriously delay the freight. This would mean, further, the use of an additional car which is not now used, and it would be necessary for the local freight the day before to move an empty car from Tallahassee to Perkins or Lloyd to be placed for this transfer. It would also make it necessary to provide stations employees at night where none are now employed. If any station, other than those named, on this route were designated, this situation would simply be aggravated.

Q. I suppose you have in mind stations between Tallahassee and Jacksonville?

A. That is right.

Q. Mr. Arnold, you have up to this point treated with the westbound movement on this route. Now take up the eastbound movement.

A. Eastbound, River Junction loads a package car for [fol. 1806] Jacksonville; Quincy loads a car for Jacksonville frequently but not every day; Tallahassee loads a car daily to Jacksonville. There are no other eastbound package cars loaded on this route. Therefore, the effect of the restrictions is that no freight could be moved by truck from

River Junction to Quincy, or through Quincy to any point east thereof, or from Quincy or any point east thereof, or from Tallahassee to Monticello, or any point east thereof.

As I have previously explained, the truck does all of the picking up and the retention of the restrictions would require that the train from River Junction to Tallahassee handle peddler cars, which are not now operated, in order to get the freight from River Junction and intermediate points to Tallahassee. Shipments originating at Tallahassee could not be handled by truck from Tallahassee to Monticello, or any point east of Monticello, making it necessary that the local trains operating between Tallahassee and Baldwin handle peddler cars, which are not now operated, and with consequent delays of these local shipments.

Q. You are speaking of Eastbound trains now between Tallahassee and Baldwin are you not?

A. North movement, yes.

Q. I wish you would contract the movement of a shipment from River Junction to some point intermediate between Monticello and Jacksonville, as it would be handled by truck and as it could be handled if the key station re-
[fol. 1807] strictions now imposed must be observed.

A. A shipment originating at River Junction, received from the L&N in interstate movement, consigned to Lake City, would leave River Junction if handled by truck at 12:45 P. M., and arrive at Lake City at 12:45 A. M., providing early delivery the following morning.

Q. That is the way it is now handled, I believe.

A. Correct.

Q. Proceed.

A. If handled by train, would leave River Junction from 1:00 to 3:45 P. M., arriving Tallahassee from 3:00 to 7:30 P. M., where it would have to be held for a local freight leaving Tallahassee at 6:00 A. M. the following morning and arrive at Lake City at approximately 2:00 to 3:00 P. M. This would, as I have said, make necessary the operation of peddler cars from River Junction to Tallahassee and on the local from Tallahassee to Baldwin, which are not now operated and would also, of course, delay delivery of the shipment at Lake City from early in the morning to late afternoon.

Q. Would it serve any purpose to handle the shipment by rail to a point beyond Monticello, such as Greenville, and from that point to Lake City by truck?

A. No, because the truck passes Greenville before the arrival of the shipment by rail and the shipment would therefore have to wait over until the following day. Rather [fol. 1808] than do this, of course, we would carry it to Lake City by rail.

It is perhaps needless to point out that the difficulties which I have just described would be aggravated if any key stations other than those already named on this route are designated.

Q. You have so far discussed, Mr. Arnold, the effect of the key station restrictions upon the movement of traffic from Jacksonville west to points on this route and from River Junction east to points on the route. What would be the effect of the restrictions upon the distribution from Tallahassee of l. c. l. business now coming into that point in through package cars consigned to stations on this truck route, and upon shipments trucked into Tallahassee for forwarding in package cars for interstate destinations beyond?

A. As I have heretofore mentioned, no package cars are operated either to or from Monticello, and as I understand the theory of the key station restrictions, this would automatically eliminate Monticello as a key station, but as now restricted the effect would be that we could distribute by truck from Tallahassee to the east only to Perkins and Lloyd, and to the north and west only to Havana. All traffic consigned to other points on this route would have to be loaded on cars at Tallahassee and carried to some points beyond Monticello on the east or to Quincy on the west.

[fol. 1809] Q. You are speaking now of shipments coming into Tallahassee I believe for distributions to points on this line?

A. That is correct.

Q. Now take up shipments moving into Tallahassee from either direction by truck.

A. Shipments now moving into Tallahassee from either direction by truck for forwarding from that point in through package cars to interstate destinations would have to be unloaded at some point east of Monticello and handled to Tallahassee by train. Or a shipment from Mount Pleasant on the west could be handled only to Quincy by truck, where it would have to be transferred to a car. As I have previously explained, all of the pick up is done by

the truck, including those stations at which package cars are now set out,——

Q. As destinations for the package cars you mean?

A. That is right.

Q. Proceed.

A. —And to restrict this would require us to provide package and peddler cars for this service. Furthermore, the effect from the delay standpoint would be the same as I have described in connection with eastbound shipments from River Junction.

Q. Now, Mr. Arnold, will you state what package cars or peddler cars, in addition to those now operated, would have [fol. 1810] to be provided if the restrictions resulting from the key stations now named will have to be observed?

A. A minimum will be a peddler car each way on the local freights operating between Tallahassee and Baldwin.

Q. Mr. Arnold, can we successfully operate our coordinated truck service over this route under any restrictions, and, if so, please state what restrictions would be unobjectionable?

A. As I have explained, the package car loaded at Jacksonville for River Junction handles satisfactorily the business received at Jacksonville for River Junction, except that which cannot be loaded in this car by 5:00 P. M. To this extent it would be prejudicial to prohibit the handling of l. c. l. shipments on the truck from Jacksonville to River Junction. While this business is of some importance and we would prefer to handle by truck from Jacksonville to River Junction, such a restriction would not be otherwise objectionable.

Q. That does not, of course, apply on shipments moving from Jacksonville consigned to any points intermediate between Jacksonville and River Junction?

A. We are referring only to the car from Jacksonville to River Junction.

Q. But I was speaking of the restrictions which you said would not be otherwise objectionable. You are speaking only of traffic which moves from Jacksonville all the way to River Junction and not to business moving from Jacksonville to any point intermediate between Jacksonville and [fol. 1811] River Junction.

A. That is correct.

Q. Proceed.

A. The package cars now operated from Jacksonville to Lake City, Live Oak, Madison, Tallahassee and Quincy satisfactorily handle the shipments consigned to these destinations, and with the same reservation with respect to the late shipments referred to, a restriction prohibiting the handling by truck from Jacksonville of shipments consigned to Lake City, Live Oak, Madison, Tallahassee and Quincy would not be otherwise objectionable.

It should be distinctly understood, however, that any restriction imposed should not prohibit us from handling traffic from Jacksonville through one or more of these points to any destination on this route other than those named above, or prohibit us from picking up westbound traffic at any point on this route, other than Jacksonville, destined to any other point on the route or beyond.

The package cars now operated from River Junction and Tallahassee to Jacksonville handle satisfactorily the business originating at these points destined to Jacksonville or beyond, and a restriction prohibiting the transportation wholly by truck of this traffic would not be objectionable. We do object, however, to any restriction which would prohibit the picking up of traffic by trucks at these points [fol. 1812] destined to any point on the route, other than Jacksonville, and we also want to pick up shipments at any point on the route for delivery to any other point thereon except those moving from River Junction and Tallahassee to Jacksonville.

While, as stated, we do operate a package car from Quincy to Jacksonville, this is done only when the available business justifies, and since this is not a regular daily operation, a restriction which would prohibit the handling by truck of l. c. l. business from Quincy to Jacksonville would leave this business without satisfactory service when the package car is not operated, hence, we ask that no such restriction be imposed.

The package cars now operated from Tallahassee to Quincy and River Junction satisfactorily handle the business moving from Tallahassee to those two points, and a restriction prohibiting the transportation of such traffic wholly by truck would not be objectionable. It should be distinctly understood, however, that this restriction should not prohibit the transportation through Tallahassee and Quincy of traffic picked up by the truck east of Tallahassee and consigned to points west of Tallahassee other than

that from Jacksonville to Quincy and River Junction, the restriction upon which I have stated would not be objectionable, and consigned to any point west of Tallahassee. [fol. 1813] Q. Will you now discuss the route between Tampa, Fla., and Sebring, Fla., Docket MC 86687, Sub. 19.

A. No key stations have been named on this route. The order of January 24, 1941, did not cover this route. At the time we filed our petition seeking the elimination from all of our certificates of the prior or subsequent rail-haul restriction, the certificate authorizing the operation of the Tampa-Sebring route had been issued, and consequently the petition did not mention the route. When this certificate was subsequently granted, it contained, and still contains, the prior or subsequent rail-haul restriction, which is, of course, objectionable to us for the reasons stated in the petition for modification of this restriction with reference to other routes. Since the Commission, in the Report and Order of January 24, 1941, has adopted the key station plan, we assume that the policy there announced will also be applied to the Tampa-Sebring route, and that consequently the prior or subsequent rail-haul restriction will be removed. I shall therefore discuss this route from the standpoint of the key station plan.

There are now no package cars operated between any points on this route.

The truck is in operation on the route.

Tampa receives package cars from a number of points, [fol. 1814] including northern and western points such as Chicago, St. Louis, Cincinnati, Hamlet, N. C., and Richmond, Va., containing freight consigned to points on this route.

There is no through freight train service between Tampa and Sebring, local trains being operated over various segments of the route. L. c. l. shipments moving by train from Tampa consigned to Sebring would leave Tampa at 7:30 A. M. and would not arrive at Sebring until 5:00 to 6:00 P. M. In the reverse direction, a shipment would leave Sebring by train at approximately 1:00 A. M., and would not arrive at Tampa until 6:00 P. M. The truck, however, leaves Tampa at 6:00 P. M. and arrives at Sebring at 11:05 P. M.; on the return movement, leaves Sebring at 11:35 P. M. arriving at Tampa at 3:20 A. M., expediting deliveries by twenty-four hours.

Since, as stated, there are no package cars operating between any points on this route, there is no conceivable reason for the imposition of any restrictions upon the full use of the truck, but on the contrary, any restrictions would destroy the purpose for which the truck service is designed.

Mr. Abeles: That Mr. Examiner, closes our case in chief.

Exam. Livingstone: We will take a recess until 1:30.

(At 12:05 O'clock P. M. the hearing recessed until 1:30 O'clock, P. M.)

[fol. 1815] Afternoon Session

1:30 p. m.

Exam. Livingstone: Are the protestants ready to proceed?

Mr. Abeles: Before the protestants proceed, it has occurred to me that in order to complete the record, it might be well to recapitulate the restrictions which in the course of Mr. Arnold's testimony would be unobjectionable in connection with the several routes which he has covered for that purpose. I would like to recall him briefly if that is satisfactory.

Exam. Livingstone: All right, sir.

C. D. Arnold testified further as follows:

Direct examination (Cont'd).

By Mr. Abeles:

Q. Will you now state the routes on which the applicants do not object to the imposition of certain restrictions in the use of their motor carrier service and what those restrictions are with respect to each route?

A. Between Richmond, Va., and Henderson, N. C., restrictions to apply from Richmond to or through Henderson, from or through Henderson, to Richmond; from Richmond to Petersburg proper, to Petersburg proper but not including traffic moving from Richmond through Petersburg to points between Petersburg and Henderson; between Raleigh, N. C., and Hamlet, N. C., on the route between Raleigh, N. C., and Hamlet, N. C. Restriction to ap-

[fol. 1816] ply from or through Hamlet to or through Raleigh; from or through Raleigh to or through Hamlet. On the route between Hamlet and Wilmington, restriction to apply from Wilmington to or through Hamlet. On the route between Monroe, N. C., and Rutherfordton, N. C., restriction to apply from Charlotte to Monroe and points beyond, not including traffic originating between Charlotte and Rutherfordton.

From Monroe to Charlotte, not including traffic destined to points between Charlotte and Rutherfordton, restriction is to apply.

On the route between Jacksonville, Fla., and River Junction, Fla., restriction to apply from Jacksonville to River Junction.

Mr. Inglis: You haven't made that clear to me. You mean you do not object to restrictions applying on operations from Jacksonville to River Junction?

The Witness: That is correct. From Jacksonville to Lake City, Live Oak, Madison, Tallahassee, and Quincy, not including freight from Jacksonville destined to any other point on this route.

From River Junction and Tallahassee to Jacksonville, not including freight from River Junction or Tallahassee, destined to any other point on this route.

From Tallahassee to Quincy or River Junction, not including freight destined to any other point on this route.

Q. As to the route which you have not mentioned, Mr. Arnold, I understand that—will you not regard the opera-[fol. 1817] tion of trucks over those routes as feasible, practicable, or effective if any restrictions are imposed, is that correct?

A. That is correct.

Q. Is there anything else you wish to say, Mr. Arnold, regarding these restrictions?

A. No, I think that is sufficient.

Mr. Abeles: That is all, Mr. Examiner.

Cross-examination.

By Mr. Beall:

Q. Mr. Arnold, in the course of your testimony you pointed out that with respect to the operating authority which had been granted you by the Commission on these

several sub numbers as to part of them you were operating and as to other subs or parts of subs you were not operating. Have you gotten any permission from the Commission to suspend or fail to operate these branches that the Commission found public convenience and necessity for?

Mr. Abeles: At the outset, I would like to meet that question with the objection that there is involved in this proceeding solely the issue as to whether or not Condition 3 as imposed by the order of January 24, 1941, should be modified. That excludes from consideration any questions dealing for the public convenience and necessity of these routes, or any question dealing with any issue other than that sole matter for the consideration of which the proceedings were re-opened. I think the question Mr. Beall [fol. 1818] has just asked clearly falls beyond the scope of the purpose of this hearing.

Mr. Beall: I would like to state the theory that I have with respect to this case.

Exam. Livingstone: All right.

Mr. Beall: We are opposing the removal of the restrictions that the Commission has put in the certificates on the ground that the removal or modification requested will result in monopoly of motor transportation by railroads and will result in destructive competitive practices, will create unsound economic conditions in both railroads and truck lines; therefore, we are opposed to the removal of them. The question I propose to ask the witness has been directed toward showing some of those results.

Exam. Livingstone: For the purpose of the hearing, you may ask the question. Read the question again, please.

Mr. Beall: Objection.

(Last question read by the reporter.)

Mr. Abeles: I object to the question on the further ground, Mr. Examiner, there is no provision of the Motor Carrier Act as far as I know, any other law——

Exam. Livingstone: The truth of the matter is you just failed to operate, is that right?

The Witness: Yes.

Mr. Abeles: The question could be answered yes or no.

[fol. 1819] Exam. Livingstone: The answer is no.

By Mr. Beall:

Q. Are you familiar with the prior record that was made in these proceedings, Mr. Arnold, in the 1937 hearings I am particularly referring to?

A. I wasn't in the 1937 hearing, but I have some familiarity with some of it.

Q. Are you still relying on that record to support the showing of convenience and necessity in connection with these operations?

Mr. Abeles: I object, Mr. Examiner. I think it is quite clear the question is directed to a matter which is outside the scope of this hearing. It can only have to do with the matter of public convenience and necessity of the proposed operation, and I am objecting, not because I have any reason not to want the answer to go into the record, but because I think if we are going to permit questions of that sort, it is going to throw open the whole question of whether or not we are justified in operating these services. That has been decided once and for all. The sole question before us here today is whether one of the conditions which was imposed upon the operations shall be modified.

Exam. Livingstone: It is very true, Mr. Abeles.

Mr. Beall: At the prior hearing, these were heard as separate proceedings before separate joint boards. The motor carriers made repeated efforts to show the com-
[fol. 1820] posite effect of these operations.

In no less than fifty occasions through this record Mr. Abeles said there was no relationship between one segment and another, they had no connection, they were never going to connect them up, they didn't want to run trucks through on that representation. The Chairman of the joint board upheld the objection and there was not one syllable allowed in the record covering the effect of these composite operations. Now, they are coming here today and show that they have got to combine Subs. 1 and 3 and Subs. 9 and 10 to make a continuous operation and to operate them at all, absolutely in the teeth of every statement that was made on the prior record at the prior hearing on which the Commission had before them, the only thing it had before them when it found convenience and necessity in the first place.

I think we should be permitted to explore this whole situation fully, because the key point or the removal of

these key point restrictions is a small part of this whole problem. The Commission now has the whole problem before it. I ask permission to proceed along those lines.

Mr. Abeles: I must ask the opportunity to answer Mr. Beall's statement, because he is obviously laboring under misapprehension as to what we are now proposing to do. We are not asking for the authority to hook up these routes [fol. 1821] and that one exception was pointed out at the hearing on the original application to which Mr. Beall refers. It isn't true that we are asking for combined operation of these routes. Mr. Beall is simply mistaken about that. I ask him to point out where we are doing so. In any event, as I say, that question is closed.

If we had asked for the opportunity to operate these routes in combination with each other, the Commission has granted it by issuing the certificates of public convenience and necessity so that, as I say, if what Mr. Beall is directing his questions at is to be allowed to be explored, then we are re-trying everyone of these cases, and we might just as well reopen the whole subject for public convenience and necessity. That is perfectly obvious from the Commission's order what it does not want to do.

Mr. Beall: I submit, Mr. Examiner, we are only re-trying it to determine the extent these key point restrictions should be modified. This whole thing goes to that.

Exam. Livingstone: That is true.

Mr. Inglis: I would like to call your attention to a holding which has at least been made in some of the sub numbers; that is that there has been no showing of public convenience and necessity in the particular cases to which this state-[fol. 1822] ment applies, except for a service which was in fact auxiliary and supplemental.

The petition for modification here and the order assigning the petition for modification for hearing both have to do with the extent or the degree that the service to be operated will be auxiliary or supplemental. If we eliminate the key station plan, which is the retarding influence, the impediment, the protection against an unrestricted, a full—to use Mr. Arnold's phrase—truck operation in the territory involved, we then eliminate the restriction upon which the operation was allowed in the first instance, and you are unavoidably then fresh in the full phase of public convenience and necessity, directly contradicting the prior holdings of the Commission.

Let's do what we are going to do frankly, fairly, and without subterfuge. If we are approaching this thing with the idea of showing public convenience and necessity, let's do it, but let's don't do it with the idea of eliminating the protection that has been afforded other carriers on a direct holding, that there is no public convenience and necessity for an unprotected service. Let's approach the thing as it should be and either eliminate the restrictions, make it back to public convenience and necessity, meet that issue or let's go ahead and handle the thing as it is represented to be as an operating problem with details.

[fol. 1823] Mr. Abeles: I didn't follow Mr. Inglis throughout there. There are certain things he said of which I take issue.

Exam. Livingstone: The final report disposed of the issue of public convenience and necessity. The only problem involved in this hearing is the definition of the key points.

Mr. Beall: As I understand, Mr. Examiner, the other report disposed of the question of convenience with restrictions as were set out in that report, not on any other basis subject to those restrictions and with those restrictions there is no possibility of drawing the inference that without those restrictions or without those identical restrictions, the Commission would even have found convenience and necessity, because the Commission had to find more than convenience and necessity to issue this order.

Exam. Livingstone: Of course, it would involve the question of convenience and necessity in some manner by eliminating any one of the key points. Proceed with your question.

Mr. Beall: Are you still relying on the prior record in the proof of your convenience and necessity?

Mr. Abeles: I again object to that question. As I say, it brings squarely to the forefront of whether the question of public convenience and necessity is to be again explored in this hearing or not. If the Examiner rules against me on that, then as I see it there is no limit of what we are to be [fol. 1824] permitted to examine in this case.

Exam. Livingstone: Well, the objection may be overruled.

The Witness: As I understand it, the Commission issued its first order on the original hearing, and then it issued a

subsequent order changing the restrictions. I don't know——

Mr. Beall: I think maybe you misunderstood my question. I merely asked are you relying on the original proof that you made of public convenience and necessity.

The Witness: As to public convenience and necessity?

Mr. Beall: Yes.

The Witness: I would say so.

By Mr. Beall:

Q. Will you please refer to the map which was identified as Exhibit 1?

Mr. Abeles: My attention has just been called to the fact that although this exhibit was offered it has not yet been received.

Exam. Livingstone: Is there any objection to the receipt of Exhibit 1?

Mr. Inglis: I object to its introduction in evidence because of an inaccuracy which I will bring out on cross-examination.

Mr. Abeles: Let's settle it once and for all now, Mr. Examiner, I can't see any conceivable objection to the admissibility.

[fol. 1825] Mr. Inglis: If I may be allowed to ask three or four questions at this time.

Exam. Livingstone: Is that agreeable?

Mr. Beall: I submit that it is usual to move to the receipt of an exhibit at the time of conclusion of cross-examination.

Mr. Abeles: I will pursue that course.

By Mr. Beall:

Q. The map, I take it, is a map of the Seaboard Railroad System, is that right, sir?

A. It is an outline map of the Seaboard System.

Q. These lines shown on the map are lines of railroads, they are not highway lines?

A. That is correct.

Q. Does this show all of the Seaboard System Lines?

Mr. Abeles: You are speaking of the rail system?

Mr. Beall: Yes, of the rail system.

The Witness: I believe it does.

Mr. Beall: Looking to the portion of the map in Virginia, you have a line going from Norlina over toward Portsmouth. Do you have a truck operating right on that line?

The Witness: No, sir.

By Mr. Beall:

Q. On the line down to Hopewell, do you have rights on that?

A. No, sir.

Q. I mean down in North Carolina, you have a line run-
[fol. 1826] ning over to Durham. Do you have any truck rights there?

A. No, sir.

Q. The line from Boykins down to Lewiston, what is the situation there? Do you have any rights or operations?

A. None, if you are speaking of trucks now.

Q. I am speaking of trucks.

A. I mean Seaboard trucks.

Q. Are there any truck operations conducted by the Seaboard other than those you have colored up on this map?

A. Yes, sir.

One between Hamlet and Monroe, one between Jacksonville and Tampa, one between Tampa and what is shown on here as Lake Villa and Tarpon Springs and Newport Richey, but that also serves Brooksville, which is a station that hasn't been shown on this map, and there is one between Rhine and Lyons, Ga.

Q. Are there any others?

A. I don't think I have overlooked any.

Q. On this line through Atlanta over toward Birmingham and Bessemer, anything over in that territory?

A. No, sir.

Q. Have you any applications for authority pending on any additional routes now?

A. None to my knowledge. I don't believe we have.

Q. Is that true both with respect to applications before
[fol. 1827] the Interstate Commerce Commission and the State Commission for intrastate rights?

Mr. Abeles: Don't answer that question. I think the trend of Mr. Beall's question indicates the need for the sustaining of the objection I have repeatedly made. There is not a single question he has asked that has the slightest bearing upon the issue before us here.

Mr. Beall: I won't press that one.
Exam. Livingstone: Proceed.

By Mr. Beall:

Q. As I understood the testimony, as I believe it was pointed out that the notice of the Commission included more subs than were involved in the petition filed with the Commission by the Seaboard, under date of April 28, 1941. That is correct, isn't it?

A. Yes. That was explained, I believe in connection with the Tampa-Sebring route.

Q. You did discuss some of them. I want to ask you if you know or maybe Mr. Abeles can tell us whether these people that were parties to the prior proceedings on these other subs were notified of this enlargement in the scope of these proceedings here?

Mr. Abeles: I will be entirely willing to answer that question although unless they are parties whom you represent, I don't see——

Mr. Beall: I expect I represent them if anybody does.

[fol. 1828] Mr. Abeles: All parties were.

Mr. Beall: Of the prior subs.

Mr. Abeles: Yes, all parties of record, of course.

Mr. Beall: I meant that.

By Mr. Beall:

Q. You testified at considerable length with respect to most all of these subs in relation to the operation of package cars; when you came before the Commission with these applications, you didn't have the right to operate trucks, as I understand it, and you were applying for it and proving public convenience and necessity. You only had the right to operate a railroad, now the Commission gave you authority to operate trucks as well as a railroad. Now, couldn't the public be served, all that you showed there was a need for in this prior hearing with what you have now got from the Commission.

Mr. Abeles: I object for the reason I think that is far afield.

Mr. Smiley: That is no further afield than this applicant coming in, asking for relief of something he is not doing.

Mr. Beall: That is a little involved with what you have

now from the Commission, you could serve the public disregarding railroad convenience and addressing yourself only to public convenience if public convenience could be served with what you now have.

[fol. 1829] Mr. Abeles: You mean with the restrictions now imposed upon us, could the public convenience and necessity be as well served as without the removal of those restrictions?

Mr. Beall: I said it would be served.

The Witness: You are speaking of the truck authorities that we have.

Mr. Beall: Yes.

The Witness: As I understand it, the public necessity and convenience was proven in the original case and what I have been discussing all the time is the effect of these restrictions that have been imposed by this order of January 24, 1941, in the face of the original restrictions that were imposed——

Mr. Beall: I understood——

Mr. Abeles: Let him finish.

Mr. Beall: Excuse me, I won't cut him off.

The Witness: I can answer your question in this way, I have shown, of course, where the imposition of these restrictions would in cases delay the movement of the freight.

By Mr. Beall:

Q. Does that complete your answer?

A. That is about all the answer I know that I can make to your question.

Q. Now, if what I was inquiring of isn't clear maybe I can clear it up further. I listened very carefully to your testi-
[fol. 1830] mony. As I get it, you were discussing the railroad convenience that would be served by lifting these key points rather than pointing out anything as to additional public convenience, you have authority to serve the public. Now it is a question, isn't it, whether it is convenient to the railroad to do it the way the Commission has given you authority to do it or not?

Mr. Abeles: The question is very argumentative. He is asking for conclusion rather than statement of fact which can be argued on brief.

Mr. Beall: I am asking for a fact.

Exam. Livingstone: Ask direct questions, reframe that, please.

By Mr. Beall:

Q. Isn't it a fact you can perform truck service to all these points under the authority you now have?

A. Well, no, we could not perform truck service between Aberdeen and Southern Pines, for example, where there is no intervening station.

Q. Those two stations are right a-joining there?

A. That is correct.

Q. They are only three or four miles apart, aren't they?

A. That is correct, That is what I say. We couldn't serve either one of those points with this restriction.

Q. They are adjoining stations as shown on your map, No. 1, what about the actual situation on the ground, aren't there other stations there, other stations between those two? [fol. 1831] A. Not as I know of. There is no agency station in there. I don't believe there is even a side track in there.

Q. Is there any volume of business moving between those points you know of?

A. Between Aberdeen and Southern Pines, yes, sir.

Q. Interstate freight?

A. Yes, sir, there is some moving in there.

Q. Can you give us any idea what kind of freight it is that is moving interstate?

A. It would be freight as we have explained coming into Aberdeen now in a package car must be distributed or handled in a package car—I mean into Hamlet in a package car must be distributed or some other point must be distributed.

Q. Is there some other point like that you can point out?

A. Well, down here on the Wilmington line we have Laurinburg, Maxton, and Pembroke.

Q. You have a lot of intermediate stations in there, don't you?

A. There is no agency point in there.

Q. Maybe it would be a good idea to clear up here. Will you tell us for the record what you mean by agency point?

A. I mean a point where we have a building and an agent to transact business.

Q. These non-agency points, do you handle l. c. l. freight at non-agency points?

[fol. 1832] A. Only occasionally.

Q. When you have it, you handle it?

A. That is prepaid from the point of origin. It is the responsibility of the receiver to get it. We don't do anything but put if off.

Q. Off the train?

A. The train, it would be put off by the truck if the truck is going by there.

Q. The principal question is a question of prepayment, that is one of the principal differences, not the only one between agency and non-agency station?

A. No, that is not the only difference.

Q. I said one of the principal differences. Now, in this testimony about re-arranging these key points intermediate points where we might set off cars referring to the convenience to the public, have there been petitions filed with the Commission on that subject?

A. I don't see where that would affect the public convenience, I said we might change the car that is now loaded, for instance, from Richmond to Sanford, we might eliminate that and load the freight in the car going to Raleigh, that would be primarily an operating benefit by not being necessary to move a car from Richmond to Sanford.

Q. It is an operating problem?

A. Yes.

[fol. 1833] Mr. Abeles: Might I ask you a question at that point, is it your theory that operating economies are not properly regardable as element of public convenience and necessity. The reason I am asking that is to be guided by my objection or failure to object.

Mr. Beall: I don't think I had gone that far.

Mr. Abeles: You know the Commission has held otherwise?

Mr. Beall: I won't go that far. I think you put a great deal in the record with respect to operating economies at the first hearing.

Mr. Abeles: That is quite true.

By Mr. Beall:

Q. Mr. Arnold, can you give me any suggestion at all as to how much tonnage you feel should be handled at a station to justify the shopping of the peddler trains?

A. Well, the peddler trains would stop, the peddler trains now, not the through trains, but the peddler trains must stop and put off a package and pick up a package regardless of how much it is.

Q. Perhaps I didn't make my question clear. Assuming you have the right to operate trucks as well as the railroad, then what tonnage basis, if any, would mark the dividing line between a station where you would willingly stop your freight train or one that you would substitute the truck service so as to not delay your through train by having a [fol. 1834] stop at these stations, what tonnage would determine when it would be wise to put truck on and let the train go on through?

A. No. There is no test on that.

Q. None whatever?

A. Now you are talking about peddling freight from a peddler car, that is less than carload quantity, how you are going to test that peddler car, would serve a large number of points, put on and take off truck would do the same thing. I don't get what you are talking about there.

Q. At the prior hearing, testimony was to the effect these trains that performed the peddler service also had carload freight on them, they were anxious to get to the end of the line, they didn't want to hold them up; if you could operate trucks, you could eliminate a lot of these little stops?

A. Yes.

Q. Tell me, what is the dividing line between a little stop you would like to eliminate and a regular stop you would regard as part of normal railroad operation?

A. I still couldn't see exactly what you mean. A peddler car and a local freight train handling a peddler will have any number of shipments for any number of points and it peddles and pick up, puts off, and pick up, so would the truck, and if the truck goes on, what we said was that the peddler car would come off, or where the truck is now operating, they are not operating a peddler car so the truck is [fol. 1835] handling all of it, I don't get what you mean is what is the dividing line, whether the truck is right now handling all of it.

Q. There would certainly be some stations, you wouldn't handle all your l. c. l. truck by truck out of there, some of the heavy volume you ship it by rail anyway?

A. You are talking about something else.

Q. I was talking about that in the first place, but didn't make it clear. Can you give us any volume at all of the volume of freight, the size of the town where it would be more economical to use the trucks than it would be in stopping your freight trains to handle this l. c. l. freight?

A. Is this what you mean, I have said that, for instance, on the Jacksonville—I think the best illustration—on the Jacksonville-River Junction Line where the truck is now operating that we would, that we are now operating and will continue to operate local set out package cars to Lake City, Live Oak, Madison, and Tallahassee, from Jacksonville.

Mr. Beall: As I understand your answer to my question is that you don't have in your mind any figure whatever as to tonnage or population that would set off these towns that you would want to continue to serve by rail as distinguished from those you would continue to use trucks on?

The Witness: No, individual situation.

By Mr. Beall:

Q. The matter of operating these package cars, have you [fol. 1836] any figure in mind with respect to the tonnage which you would expect to put in a package car in order to make that a reasonable railroad operation?

A. Well, that would vary from day to day.

Q. Yes, of course.

A. But I don't know where you could get a dividing line there to work on. If it turns out eventually that there is not sufficient tonnage there to justify the continuance of that car, probably we would ask for elimination of that as a package car point, but that would be something else.

Q. Would it be three tons per car or ten tons per car?

A. Well, now, you would have to take into consideration possibly a lot of things there, putting three tons per car from Live Oak, it now moves in a package car, on the truck would cut out that package car, then we would possibly cut it out.

Q. If you only had three tons, you would probably cut the package car?

A. It may run up three or four tons or more.

Q. Would you say if it got above four tons you would still keep the package car there or would it be higher than four tons?

A. I can't give you any figure on that.

Q. You have no figure in mind as representing a reasonable demarcation of the economical operations for package cars?

A. I don't see how we can decide that here, that is outside of this issue.

[fol. 1837]

Q. I take it that you haven't given the consideration.

A. We haven't applied that figure to this operation, if that is what you are trying to get at.

Q. You haven't applied any fixed principles in connection with your petition of modification of these restrictions by the Commission either?

A. No, we have said where we are now operating, and we will continue to operate them.

Q. On your Seaboard Air Line Railroad, can you tell me what your average carloading is on lcl freight for your system?

Mr. Abeles: I object, Mr. Examiner. I think we have gone again beyond the point of legitimate cross-examination as far as the issues of this case are concerned.

Mr. Beall: That is a simple question, a matter of record.

Mr. Abeles: It may be simple but it has nothing to do with the propriety of the key station restrictions which are being considered here today, Mr. Examiner. It doesn't have anything to do with the specific issue.

Exam. Livingstone: What does LCL freight have to do with this?

Mr. Beall: We had a whole morning of testimony with respect to operation of package cars where they would be justified, where they might not be, where it would be more convenient to do it some other way than by the method prescribed by the Commission. I am trying to find out whether the Commission's present regulations are entirely reasonable, whether the loadings if they complied with the Commission requirements might be equal to or exceed what they are doing on the system as a whole, where there might be a reason for reducing to modify them.

[fol. 1838]

Exam. Livingstone: Do you have any traffic figure available?

The Witness: I haven't, to go into all that kind of detail. I didn't understand that sort of issue was before this hearing.

Exam. Livingstone: Just answer the question, then that you have no traffic figures available.

The Witness: All right.

By Mr. Beall:

Q. If you don't know what the l. c. l. carloadings are on the Seaboard, do you know what the national figure is for l. c. l. carloadings?

Mr. Abeles: I think that is ridiculous, Mr. Examiner. I object to it. Don't answer the question. I object to it and ask the Examiner to sustain the objection.

Exam. Livingstone: Sustained.

By Mr. Beall:

Q. Mr. Arnold, in connection with the line from Hamlet up to the town of Bracey in Virginia, as I recall your testimony, you said you were not operating there now?

A. Hamlet to Bracey?

[fol. 1839] Q. Yes, or am I wrong about that?

A. No, we are not operating from Hamlet to Bracey.

Q. I think you said that is right, that you are not operating from Hamlet to Bracey, that is right?

A. That is right.

Q. The Commission has apparently designated quite a number of so-called key points in there which you are asking to have removed. Let me ask you without having given this operation as set up by the Commission, a trial, how can you tell us that there is any need for a modification of it when you haven't even tried it.

A. Well, I don't think you would have to do that to tell what effect it would have if you did try it.

Q. How can you tell what tonnage would be in these set off cars at these various points which you would distribute by truck up and down the line as outlined by the Commission, without trying it, how can you possibly tell?

A. I don't know just what you mean, but I have said or undertaken to show what effect it would have on the operation of package cars and peddler cars if these restrictions are imposed. Now, I said that we are operating a package

car from Richmond to Sanford, and that it might be possible by loading the freight in the car that is now operating from Richmond to Raleigh, to eliminate the car as now operating from Richmond to Sanford. As it is now, we have got to get the freight for these contiguous stations to some point [fol. 1840] where the switcher operating in that territory can get it.

Q. Isn't it a fact you have no way of knowing what the loadings would be for a package car that you might set out at any one of these key points the Commission prescribed in their certificate because you haven't even started the operation, haven't tried it out to find out, isn't that so?

Mr. Abeles: Mr. Beall, may I ask for clarification of that question. When you say we have no idea of what traffic will be carried to these set out points, do you mean by rail, because, of course, we are operating by rail now, and we obviously know what we are carrying. I must confess I find some trouble, as I think the witness does, in understanding just what you are driving at.

Mr. Beall: You are not, as I understand it, even by rail operating package cars to these numerous key points described by the Commission.

Mr. Abeles: I will let the witness answer that question.

Mr. Beall: I think he testified as to that all morning that he was not operating to many of those points, only some of them, he was operating them too.

The Witness: Let's see what you are going to ask.

Mr. Beall: I am going to ask you, isn't it a fact you can't possibly tell what the tonnage of a package car would be if you did operate one and set them out in accordance with the plan outlined by the Commission in their certificate? [fol. 1841] The Witness: As far as that goes, I couldn't tell what it is going to be this time next year if it continues to operate as it does now. You are talking about a future prognostication here. I couldn't do that. You want to know how much would we handle next year as it is operated right now on the rail.

By Mr. Beall:

Q. I am asking how much of your present rail tonnage would go in one of those package cars if you operated it. Obviously you don't know, because you haven't started the operation. I am only trying to point out, Mr. Abeles, the

apparent inconsistency in asking for modification and removal of restriction without first having at least given it a trial, that is the theory of the questions I am asking.

Exam. Livingstone: Proceed with your questions, please.

By Mr. Beall:

Q. How many trucks, for example, are you now operating between Petersburg and Bracey?

A. One.

Q. Only one truck?

A. Between Petersburg and Bracey, yes.

Q. Is there any division or section down here in which you are operating more than one truck?

Mr. Abeles: You mean throughout the system, Mr. Beall?

Mr. Beall: Yes.

The Witness: We are only operating one truck in one direction on the Jacksonville River Junction Line, we are [fol. 1842] operating two trucks one in one direction, and one in the other.

Q. Is that the maximum of trucks you are operating at any one section of the road?

A. Well, between Hamlet and Columbia and Sumter, we are operating two, one from Hamlet to Columbia, and one from McBee to Sumter.

Q. This truck up here in Virginia, you say you only have one that takes care of the distribution northbound and southbound too?

A. Only between Petersburg and Bracey.

Q. The one truck handles all the business both ways?

A. That is right.

Q. You have on some portions of your line more than one truck. You referred this morning to certain truck schedules and the advantages as you saw it to changing the key point, that would be in so far as schedules go, that would be a matter of putting on more trucks rather than changing key points, would it?

A. I think what you are talking about now is where I referred to two schedules between Henderson and Raleigh. That has been set up since the very beginning on that basis.

Q. If the present truck schedules didn't fit the operation, they would be corrected by putting on more trucks, couldn't it?

[fol. 1843] A. Yes.

Q. At the prior hearing, it was testified that it was not proposed to segregate these operations from the rail operations or to keep any separate account, either costs or revenue. Is that still your——

Mr. Abeles: I object. It has no competency or relevancy to the issues involved.

Exam. Livingstone: You may answer.

The Witness: That is still the fact.

By Mr. Beall:

Q. You say it is still a fact?

A. Yes, sir.

Mr. Abeles: May it be understood, Mr. Examiner, my exceptions to adverse rulings on my objections?

Exam. Livingstone: Yes.

By Mr. Beall:

Q. Mr. Arnold, are any of these lines of the Seaboard being paralleled by Railway Express Agency trucks?

Mr. Abeles: I object.

Exam. Livingstone: You may answer.

The Witness: Well, I can't answer that.

Exam. Livingstone: Just say you don't know the answer, and we will proceed to the next question if that is the case.

The Witness: I don't know the answer.

By Mr. Beall:

Q. Do you know how the express business is being han-
[fol. 1844] dled at these various intermediate stations here, that you want to serve by truck and stop your local trains from serving them?

A. Well, between——

Mr. Abeles: I object, Mr. Examiner, to all these questions relating to the handling of express.

Exam. Livingstone: What bearing does the handling of express have, Mr. Beall?

Mr. Beall: The Express Agency is what the name implies, an agency. The Seaboard is one of the owners. It operates as a branch of the railroad, taking care of lcl busi-

ness, which the railroad otherwise would be required to handle, so you are duplicating the service.

Exam. Livingstone: The express business is something separate and distinct from the rail transportation business.

Mr. Beall: If that were so, it would be quite interesting. The trouble is we haven't been able to find the man who can tell us the difference between them.

Exam. Livingstone: Proceed, please.

By Mr. Beall:

Q. Mr. Arnold, these points with respect to which you testified this morning, how many of them are served by other railroads?

Mr. Abeles: You mean all points shown on map Exhibit 1, Mr. Beall?

[fol. 1845] Mr. Beall: In so far as the truck operations are shown on Exhibit 1.

Mr. Abeles: You are not confining that to key stations, for instance?

Mr. Beall: No.

The Witness: Just how far do you want to go into that? We have got a very large number of junction points with other railroads.

Mr. Abeles: Do you want him to go through all this, Mr. Beall?

Mr. Beall: I think I will shorten it, Mr. Abeles.

By Mr. Beall:

Q. Let me ask you this question, if service by more than one railroad is a matter of public information, there is no use to have you take the time to read that into the record here. For the convenience of the record though, can you tell us how many, if any, points there are where another railroad is paralleling the Seaboard and serving the same points you are serving with parallel lines.

A. Now, it depends on what you mean by a parallel line, there is no one line that parallels the whole of the Seaboard Air Line. There is no parallel railroad between Raleigh and Petersburg.

Q. Mr. Arnold, I was asking the question to determine the proposition of having more than one railroad operating trucks as well as railroad, whether they also operate trucks,

[fol. 1846] that was the question, do you know of any of those situations off-hand?

A. I don't know of anybody operating a truck, of course, from Richmond to Petersburg, the Atlantic Coast Line also runs from Richmond to Petersburg.

From—well, there is no other parallel that I know of as far as these truck routes are concerned. The Southern Railroad has a line from Savannah to Columbia, there are only two common points they touch, that is Savannah and Columbia.

Q. These trucks which you operate, at the last hearing it was stated that the Seaboard doesn't own any so-called transport company or separate corporation, that these trucks were actually operated by the Seaboard receivers, that is still true, is it?

A. Yes, sir.

Q. May I ask you this, are these trucks owned by the Seaboard or are they leased from the Railway Express Agency?

A. The one between Petersburg and Bracy is operated for the Seaboard under a contract with the Railway Express agency under which the Seaboard pays the Railway Express Agency the cost of operating the truck.

Q. That is the only one, is it?

A. That is the only one involved in this.

Q. You testified this morning with respect to traffic arriving, I think at Portsmouth, you said by boat line, that [fol. 1847] you wanted to handle by truck. Does the Seaboard Railroad have any interest in boat lines?

Mr. Abeles: I don't see that that has anything to do with this, Mr. Examiner.

Exam. Livingstone: Answer the question if you know.

Mr. Abeles: I believe the receivers have some interest in the Baltimore Steam Packet Company.

Mr. Beall: Is that one of the lines that you were referring to this morning?

Mr. Abeles: What did you say?

By Mr. Beall:

Q. Is that one of the lines that you were referring to this morning?

A. It operates between Baltimore and Norfolk and Portsmouth.

Q. That was one of the lines you were referring to, handling the freight?

A. Yes.

Q. At the prior hearing, testimony drawing the railroad distinction between substitute service and co-ordinated service, as I recall it, the railroad proposed to institute co-ordinated service but not substitute service. Do you know whether since the last hearing the Seaboard has obtained permission from the Interstate Commerce Commission to publish tariff rules for substituted service?

Mr. Abeles: I object to that, Mr. Examiner. I don't see any possible relevancy of that question to any issue in this [fol. 1848] case. Now, if Mr. Beall can explain why he is asking the question and satisfy the Examiner that it has something to do with what we are considering here, then I will withdraw the objection, but I must persist in my objection to the questions which apparently are blind, lead nowhere and have absolutely nothing to do with what is before us here, simply encumbering the record. We are going on and on, getting nowhere and adding nothing to the evidence which the Commission should have before it in my judgment.

Mr. Smiley: I might call the Examiner's attention to the fact the objections have taken up more space in the record than the answer.

Mr. Abeles: I beg your pardon. Even if they were, I still have any right to make my objections in connection with this. I am asking Mr. Beall to explain what possible relevancy the question can have to any of the issues here.

Exam. Livingstone: Make your statement, please.

Mr. Inglis: I don't know what purpose Mr. Beall has in mind in asking the question; as to the relevancy, I think it is perfectly relevant to show what direction the receivers are headed toward here, if they are headed toward substituted service, truck service instead of toward a truck service that is auxiliary and supplemental, then the answer might be extremely pertinent and for that reason it is relevant irrespective of what purposes Mr. Beall might have had.

[fol. 1849] Mr. Beall: He has stated my purpose.

Exam. Livingstone: In order to expedite the hearing, you may answer the question.

The Witness: I don't understand the question. You will have to repeat it.

By Mr. Beall:

Q. Do you know whether since the last hearing in 1937 on these subs, the Seaboard applied to the Interstate Commerce Commission for permission to substitute this truck service for rail service, in other words, the substitute tariff rule?

A. I don't know anything about that. If they have it is beyond my information. I haven't the information about that.

Mr. Abeles: If the Examiner rules that question pertinent, I have a traffic witness here who can answer it, but I still can't see any possible relevancy to any question here under consideration.

Exam. Livingstone: The witness states he doesn't know the answer. Proceed, please.

By Mr. Beall:

Q. What records, if any, do you keep as to the tonnage which you are hauling on these trucks that are operated by the Seaboard?

A. There is a record kept in the Department of Revenue office of tonnage on the trucks.

Q. Does that also include ton miles?

A. I think that is the purpose for which he gets it, is to [fol. 1850] get ton miles to report to some of the states for tax purposes or something of that kind.

Q. Do you make a report to the Interstate Commerce Commission of the tons which you handle on these trucks you operate?

A. I don't know. I don't think so. In fact, I am sure they don't.

Q. You say you are sure they don't?

A. No such report made that I know of. I am not familiar with it.

Q. You say you are not familiar with it. Just in order to pick up the loose end for the record, Statement No. Q-225, for the year 1940 and issued by the Interstate Commerce Commission; Bureau of Statistics has information in it with respect to tons and ton miles and shows the Seaboard.

(A short recess was taken.)

Exam. Livingstone: Proceed.

By Mr. Beall:

Q. Mr. Arnold, the general effect of the removal of these key point restrictions would be to lengthen the permissible haul by truck, wouldn't it?

A. As compared with the key station restrictions as named in this order, yes.

Q. For instance, if Petersburg were eliminated, you could run from Richmond, at least, through to Henderson?

A. That is right, we have named a restriction there that would prevent moving it to Henderson or beyond Henderson.

[fol. 1851] Q. If there was a restriction placed on Henderson, it would stop you from going through it?

A. On this list, I have given here——

Q. There are a number of places where you have suggested removing restrictions where the hauls would be around 75 or 100 miles?

A. Yes, sir.

Q. Is that right?

A. Yes, that is right.

Q. Mr. Arnold, at the prior hearing the testimony was to the effect that this traffic was going to move at railroad rates on railroad bills of lading, is that still true?

A. Yes, sir.

Q. If that be the present proposal, as you state, how will it be possible to test the reasonableness of those rates, as applied to these long haul operations?

Mr. Abeles: I object to interjecting the question of rates into a hearing which is obviously designed——

Exam. Livingstone: Sustained.

Mr. Beall: May we have exception, Mr. Examiner.

Exam. Livingstone: Yes, sir.

By Mr. Beall:

Q. It was testified at the former hearing that it was not proposed to keep any separate accounting for these truck operations with respect to traffic and revenues, I would like to ask you if that is still your proposal, I believe you [fol. 1852] said it was.

A. I have said it was.

Q. I would like to ask you if that be so, how is it going to be possible for the Commission to police the operating rights if no records are being kept or are to be kept.

Mr. Abeles: Just a moment, you mean to police the observance of the restrictions, Mr. Beall?

Mr. Beall: Yes.

Mr. Abeles: I don't see the relevancy of that question, but I won't object if the witness knows.

The Witness: Well, the trucks record the shipments as they put them off. Those records would be available at the agencies where the trucks were loaded or from the truck driver's log covering this trip.

Mr. Abeles: When you say truck driver's log, are you talking about this driving time log?

The Witness: No.

Mr. Abeles: There is such a thing as a driver's log?

The Witness: Manifest.

Mr. Beall: That is different.

By Mr. Beall:

Q. Then if you have those records now and are making them at this time, would you have any objection to the Commission prescribing on your accounting restrictions in connection with any operating rights they might grant in connection with modification?

[fol. 1853] Mr. Abeles: I object for obvious reasons.

Exam. Livingstone: Sustained.

Mr. Beall: May I have exception?

Exam. Livingstone: Yes, to each adverse ruling, you may have exception.

By Mr. Beall:

Q. Is there any refrigerated service given down in this territory with respect to which you testified this morning?

Mr. Abeles: I object.

Exam. Livingstone: What has that to do with it?

Mr. Beall: It might do with the feasibility of putting on these trucks. I want to know what truck they have to take the place of any cars that might be taken off.

Exam. Livingstone: Do you understand the question?

The Witness: I think I do. We have no refrigerator service on l. c. l. freight.

Mr. Beall: Only on through freight?

The Witness: Carload.

By Mr. Beall:

Q. At the last hearing a number of independent motor carriers testified and offered to co-ordinate their services with those of the Seaboard. In connection with your proposal to eliminate certain key points and lengthen these points, have you given any consideration to the possibility of utilizing the service of independent motor carriers.

Mr. Abeles: I object, Mr. Examiner, that question was [fol. 1854] considered fully by the Commission in its report and order in these cases. In its original——

Exam. Livingstone: Yes, the objection is sustained.

Mr. Beall: Exception please.

By Mr. Beall:

Q. Would you be willing to furnish the Commission with a statement showing the tonnage originating and terminating at these various points involved in these motor carrier applications?

Mr. Abeles: May I ask before the witness answers that question, do you mean all the points served by the trucks, just the key stations points?

Mr. Beall: No, I had in mind all the tonnage from all the points that are going to be served by the truck operations.

Mr. Abeles: That evidence, Mr. Examiner, was very largely covered by the testimony in the original proceedings on the applications for the certificates and the Commission presumably considered it in its action on those applications. I would hesitate to accede to a request of that sort at the present time in view of the fact that I don't see that it has anything to do with the questions here before the Commission, and I would obviously involve an enormous amount of work. Perhaps if Mr. Beall could explain the purpose he has in making that request——

Mr. Beall: I am unable to concur in the proposition that it was covered at the prior hearing. There was some refer- [fol. 1855] ence to tonnage at a few points which included carload and less carload and included interstate and intrastate, all lumped together and the limited amount that was put in was, I believe, useless and that was why I am suggesting that more competent information be furnished the Commission so they will have something on which to base

a decision as to whether these points should or should not be modified.

Mr. Abeles: Of course, we are willing to furnish anything that the Commission wants that is available to us, but I would still like to know just what you have in mind as to the usefulness of such information for the limited purpose for which these proceedings have been reopened.

Mr. Beall: I would suggest, Mr. Abeles, that it would enable the Commission to determine whether the package car loadings at the points they have now designated would be sufficient to justify the amount of package cars at those points which you don't want to operate.

(Question read by the reporter.)

Mr. Abeles: You said you thought the Commission might want to know what the lading of the package cars was.

Mr. Beall: What it might be based on, the tonnage?

Mr. Abeles: Are you changing your request to the lading of the package cars because in answer to my first question you said you wanted this data for all of the points served by the trucks?

[fol. 1856] The Witness: That is right.

Mr. Abeles: Of course, you know all of the points served by the trucks are not served by package cars?

The Witness: That is right.

Mr. Beall: Now, my first statement was a request for the information, then you asked me why it should be requested and I said one of the reasons for getting it and having it in the record would enable the Commission to forecast what a package carloading might be at these points where you don't operate them, but where under their plan, you would have to operate them.

Mr. Abeles: I think the witness had better state whether in his opinion the furnishing of that information is feasible or not.

The Witness: Well, it would be feasible, but it would be an enormous undertaking.

Mr. Beall: Would it be feasible to show and separate the interstate from the intrastate traffic?

The Witness: It would be feasible, but as I say, it would be an enormous undertaking for the reason that it isn't recorded at each one of these points, it would have to be worked back from the original records——

Mr. Beall: Would it be possible to show the revenue involved in these shipments?

The Witness: Yes.

Mr. Abeles: You mean the total revenue received by the [fol. 1857] railroad.

The Witness: For the part of the haul.

Mr. Abeles: Not merely the truck part.

Mr. Beall: No.

The Witness: That would be an enormous job because of the way the accounts are kept, the divisions involved and all of that accounting procedure, because it isn't recorded. Now I say it would have to go to the original record at each station and would have to be worked that way.

Mr. Beall: Let me ask you this, would it be possible to show the information separating carload from the less carload traffic?

The Witness: Well, the carload traffic is available with less trouble, what I mean by that, that they could locate that revenue on that with less trouble, but the revenue accruing to any one station on less carload traffic is not recorded at the present time and to get it, we would still have something to go back to, the original record at each station to dig it out.

Mr. Beall: It would be possible to get it?

The Witness: It would be possible with an enormous amount of work and time.

By Mr. Beall:

Q. Will you furnish that information for the record?

Mr. Abeles: No, I can't consent to do that, Mr. Beall. [fol. 1858] I can almost say with my own knowledge it just won't be worth while to anybody. I mean in the light of the time and expense that would be involved.

Mr. Beall: You mean you would rather abandon the operating rights than furnish the information.

Mr. Abeles: No, because I have objected to all this line of inquiry on the ground of its relevancy. I don't think it has a thing to do with what we are asking for here.

Exam. Livingstone: Proceed, here.

Mr. Inglis: I would like the Examiner to rule on that.

Exam. Livingstone: I will not require the furnishing of such information.

Mr. Beall: I take it that is a ruling on the matter. May I have exception, please?

Exam. Livingstone: Yes, sir.

By Mr. Beall:

Q. Have you any information as to how much traffic between the key points as you suggest would move wholly by truck and not have any portion of it hauled by rail?

A. No, I don't believe I can answer that.

Mr. Beall: That is all, thank you.

Mr. Abeles: I shall have a very small amount of redirect examination.

Exam. Livingstone: I suggest you wait until the end of the cross-examination, you may have additional questions.

[fol. 1859] By Mr. Noah:

Q. On what basis was your company authorized by the Interstate Commerce Commission to operate motor vehicles?

Mr. Abeles: I object.

Exam. Livingstone: Read the question.

(Question read by the reporter.)

Exam. Livingstone: What do you mean by that?

Mr. Noah: I mean what is the authority given based upon, public convenience and necessity, for instance?

Mr. Abeles: Isn't that self evident, Mr. Examiner?

Exam. Livingstone: Yes, the applications are based on convenience and necessity.

Mr. Abeles: The law requires that.

Mr. Noah: I know that. I thought the record ought to show it in this instance.

Exam. Livingstone: There are no grandfather applications involved here.

Mr. Noah: But you have not rendered service authorized by the Commission as required by the public as between certain of your key points, have you?

The Witness: In some instances.

By Mr. Noah:

Q. In other instances, you have not?

A. Well, I meant that to be that in some instances we have not yet performed service under certain of these certificates, that is stated in the evidence.

[fol. 1860] Q. As to those operations authorized which you have not conducted, what is your reason for not giving the public that service authorized?

Mr. Abeles: I have no objection to his repeating it, but that is fully set forth in his direct testimony.

Exam. Livingstone: In order to expedite the hearing, answer the question.

The Witness: I explained, I believe, that due to the effect of some of these key station operations we had held in abeyance the inauguration of the operation pending the outcome of this hearing.

By Mr. Noah:

Q. That has been for a period in some instances of nearly two years, has it not?

A. Yes, sir.

Q. The reason for it is not also based upon the fact that you felt it not feasible to conduct such an operation with the key point, is that true?

A. Well, since the key points were established, that is true.

Q. Your proposal here is for the convenience of your company, is it not?

A. Yes, sir.

Mr. Noah: That is all, thank you, sir.

By Mr. Inglis:

Q. Mr. Arnold, let's clear up one point at the outset if we may. Your exhibit 1 shows some figures after the names of several towns located in Florida, what did you tell us [fol. 1861] was the origin of those figures?

A. That is all over the map, not only in Florida that represent the population of that town of village or point.

Q. What is your authority for the figures shown for the Florida points?

A. Well, I explained now I can't tell you for each point what it is, but I explained the figure was taken from the

1940 census figures where they were available, otherwise from the best information we could obtain.

Q. Help me on one point, if you will, please, Mr. Arnold. You show the population of Jacksonville, for instance, as 146,259. The official release of the Bureau of the Census of the Department of Commerce, showing the 1940 population figures for Jacksonville gives 173,065.

A. Well, I will accept that correction if that is the official release of the census bureau.

Q. I don't believe it is necessary to read into the record all of the discrepancies. Will you simply accept it to be true that none of the population figures shown for the state of Florida are accurate? I will give you the official release of the Department of Commerce to compute, if you wish.

A. We will adopt the official release of the Department of Commerce if that is available.

Q. It has been available for many months.

A. Possibly we didn't have a copy of it. We will adopt [fol. 1862] it as the population of any point, the official publication of the Census Bureau.

Mr. Inglis: I would like to state to the Examiner the population figures for the State of Florida have been completely disregarded, I have not found but one accurate one.

Exam. Livingstone: You in all probability used 1930.

The Witness: No, in some cases they were published by some State Bureau. One case had a publication from a company to apply that to each individual point on this map. I couldn't do it at this time.

Mr. Abeles: We will accept the official publication of the Department of Commerce as showing correctly the population of the towns included on this exhibit. The only purpose of those population figures was to show the relative importance of those places.

Exam. Livingstone: All right, sir.

The Witness: The sole purpose was to just show that.

Mr. Inglis: That the relative importance may be further brought out with the permission of the Examiner, and of the applicant, may I read some half dozen correct population figures into the record for Florida towns. Do yo objection to that?

Mr. Abeles: No, none at all except I don't think it is important enough to take the time of the hearing.

Mr. Inglis: I believe it has some bearing on it.

[fol. 1863] Mr. Abeles: I have no objection to it.

Mr. Inglis: The population for the town of Lake City, which is some sixty miles to the west of Jacksonville, is shown on the map as 4738. The official figures show it at 5836. Live Oak is shown on the map as having a population of 2995. The correct population according to the 1940 census was 3437.

Exam. Livingstone: I believe your position is clear enough as to discrepancies in population. It is a matter of public record.

Mr. Inglis: I am not attempting to discredit the map. I have something else entirely in mind. If you will allow me to pursue this for some half dozen key stations, it will help us, I believe.

Exam. Livingstone: All right, sir.

Mr. Inglis: Madison is shown on the map as having a population of 2515, and on the census figures as having a population of 2730. Monticello is shown as 2042; the figures are the same, that is the identical figure. Tallahassee is shown as 11,725 on the map; its population is 16,240. River Junction is shown as 2563 on the map; and on the census figures as 7100. Down in the Tampa-Sebring section, Tampa is shown on the map as 100,151, and in the census figures it is shown as 61580. Lake Wales at 4488; instead of the population, 5024; Sebring at 3194, as opposed to the [fol. 1864] census figure of 3155. With those figures in mind, do you again state, as you told Mr. Beall a moment ago that you had no population figure that you regarded as ideal for a key station or as ideal for a set off point for a package car.

Mr. Abeles: He didn't make any such statement.

Mr. Inglis: Allow me to ask him the question. Do you have any population for a town that you regard as ideal for a key station or for a point at which you can set off package cars?

The Witness: No, sir.

By Mr. Inglis:

Q. You have not? I believe you told Mr. Beall you had no average daily tonnage that you regarded as ideal as a point for the set off of the package car or for the establishment of a key station, is that correct?

A. That is correct.

Q. Do you have any distance that you regard as ideal between key stations?

A. No, I have not.

Q. I didn't understand exactly the restrictions to which the railroad would voluntarily submit on the Jacksonville River Junction operation known here as subs 9 and 10 consolidated. You named the point of Jacksonville, Lake City, Live Oak, Madison, Tallahassee, and Quincy as points at which the railroad now set off package cars.

A. That is from Jacksonville?

[fol. 1865] Q. Yes, from Jacksonville, and you gave some voluntary restriction to which you would submit as to those points. Would you mind explaining a little more carefully what you meant?

A. Well, I don't know just what you mean, but I stated at the present time we are operating package cars from Jacksonville to Lake City, Live Oak, Madison, Tallahassee, Quincy and River Junction, and that we were willing to continue to do that if it is desired to so restrict the operation.

Q. Well, what was the qualification that you put on your voluntary restriction, the qualification having to do with freight from Jacksonville consigned to any other point on the Sub 9 and 10 route? What did you mean by that—I simply don't understand it?

A. I mean by that at the present time the truck is handling from Jacksonville all of the traffic for these intermediate points other than the ones named—in other words, it handles all of the traffic for McClenny, Glen St. Mary, Sanderson, Olustee, Welborn, Lee, Greenville, and so on.

Q. I understand that is the present operation, but is it your idea of an appropriate restriction on the operation to allow you to continue to serve the smaller points that you have just named by truck out of Jacksonville, or is that to be served, are those points to be served by truck out of such points as Lake City, Live Oak, Madison, Tallahassee, Quincy, and River Junction.

[fol. 1866] A. They will be served by the truck out of all points—in other words, as I explained, the truck does all of the delivery at these points, and it does all of the picking up even at Lake City and Live Oak and Madison.

Q. But under restrictions you consider ideal, you would handle a shipment, I will say for Greenville—Greenville being a point lying between Madison and Monticello and

the shipment being one received at Jacksonville from your rail lines out of, say, Norfolk, you would propose to handle that less carload shipment from Jacksonville to Greenville by truck all the way from Jacksonville to Greenville, wouldn't you?

A. Yes, sir.

Q. You would not then under your proposal honor any natural or normal key stations such as Lake City, Live Oak, or Madison, that might be intermediate between Jacksonville and Greenville?

A. I don't know what you mean by honor, but all this was explained in the testimony.

Q. It wasn't too clear to me, Mr. Arnold, that is the reason I am asking you to do it over again.

Mr. Abeles: May I interpose there, Mr. Inglis, and ask the witness to explain why we would not be willing to handle a shipment from Jacksonville to one of these intermediate stations by truck, only from the nearest so-called key stations, that is what you have in mind, isn't it?

[fol. 1867] Mr. Inglis: I have in mind what he is willing to do voluntarily. I understand his reasons for not doing it, I simply want to get clear what he wants to do and what he is not willing to do, to restate a moment my last question, a shipment such as I have described would under your idea of a proper operation be handled all the way from Jacksonville to Greenville by your truck, wouldn't it?

The Witness: That is right.

By Mr. Inglis:

Q. About what time would that delivery be made in Greenville?

A. It would be made there about 12:35 a. m.

Q. About midnight, is that right?

A. Yes, sir.

Q. Go with me a little further, at about what time would a similar delivery be made at Monticello?

A. 1:25 a. m.

Q. Lloyds?

A. About 2 p. m.

Q. Perkins?

A. That would be at about 2:20.

Q. Leading back toward the east along that same route at about what time would the truck delivery be made at Glen St. Mary?

A. Well——

[fol. 1868] Mr. Abeles: Are you speaking now of the westbound movement?

Mr. Inglis: Speaking of movement from Jacksonville which is the predominant direction of the freight.

The Witness: About 8:10 p. m.

By Mr. Inglis:

Q. Molusty?

A. About 8:45 p. m.

Q. Lake City?

A. 9:35 p. m.

Q. Delivery there would be made by the truck out of Jacksonville or would that be delivered out of the package car at Lake City?

A. At Lake City, it is being made in a package car.

Q. How is the freight consigned to Lake City actually delivered?

A. Delivered in the package car.

Q. I mean do you perform a pick up and delivery service in the limits of Lake City?

A. Yes, sir.

Q. Is that done by the same truck that left Jacksonville at 7 p. m.?

A. No, sir.

Q. Give me the delivery time for the town of Lee?

A. About 11:50 p. m.

Q. Now, Mr. Arnold, earlier you discussed some towns up in the Carolina and Virginia section with which I am not [fol. 1869] entirely familiar, but there you told us that in instances where your deliveries had to be made after the normal closing time that it amounted to a 24 hour delay in the delivery time which you could eliminate by the clever use of trucks. Explain if you will whether that same situation prevails on a westbound shipment from Jacksonville bound to, say, Greenville, and if you can in fact, from a practical standpoint deliver to a merchant in Greenville at such a delivery time as you have given us a moment ago?

A. No, sir.

Q. The same situation prevails there as prevails in the Carolina territory——

A. Wait a minute, you are mixing up the delivery time to the shipper with the delivery time it is delivered to the station for delivery to the station.

Q. That is precisely the point, the time you gave me while ago was the time the truck arrives at the town?

A. That is right.

Q. The delivery is sometime the next morning when it suits the convenience of the shipper to come get the freight?

A. That is right.

Q. You do not perform a pick up and delivery service from small towns to Jacksonville or River Junction, do you?

A. I can't tell you the individual places that are covered [fol. 1870] or not covered by the pick up and delivery tariffs from my own information at the moment.

Q. Would you be glad enough to give me your approximation then recognizing the possible inaccuracy, do you pick up and delivery in Lake City, you told me a moment ago you did?

A. Yes.

Q. Do you pick up and deliver in Live Oak?

A. Yes.

Q. Do you in Madison, Madison being the border line?

A. I am not positive about Madison, but I would rather say I am sure we do.

Q. How about Tallahassee, Quincy, and River Junction?

A. Yes, sir.

Q. Your petition for modification in this case mentioned sub 10, which covers the distance from Live Oak to River Junction. My answer to the petition mentioned subs 9 and 10 together. We now have your testimony stating that that is proper to consolidate those two operations. Of the two courses you have taken, one considering them as separate in the petition of modification, and two, considering them as consolidated in your testimony, the second one is the more nearly correct one, is it not, Mr. Arnold?

Mr. Abeles: Let me inject there and explain the petition, dealt with them separately, specifically, because the operating authority was granted in two different certificates, [fol. 1871] you see.

Mr. Inglis: I appreciate that is an argument for dealing with them separately. I appreciate also the fact one had no

key stations on it and other did, you were quite content to believe the non-key points just where it was.

Mr. Abeles: I beg your pardon. I must answer that question. If Mr. Inglis would examine the key station restriction acceptances, you will notice that Jacksonville is among them whereas it is not designated in the Commission's order of January 24, 1941.

Mr. Inglis: However, as to Jacksonville you had another type of restriction which was not pleasant to the railroad either.

Mr. Abeles: Not at all, that was removed by the order of January 24, 1941.

Mr. Inglis: It was removed and the key station plan was not substituted as to the sub 9.

Mr. Abeles: That is correct. I am merely trying to explain to you that in our proposals here, we have not confined ourselves to the key stations which are designated in the order of January 25, 1941, but have volunteered the acceptance of a restriction resulting from the naming of Jacksonville as a key station, which the Commission did not do in its order, you see.

By Mr. Inglis:

Q. Mr. Arnold, assuming that the railroad is willing that [fol. 1872] Jacksonville be named as a key station and assuming whether the railroad is willing or not that the Interstate Commerce Commission will require that the other terminus of the operation, that is Live Oak is considered as a key station, which point lying between Live Oak and Jacksonville is of most importance to the Seaboard as a freight distributing point.

A. Between Live Oak and Jacksonville?

Q. Yes.

A. As a less carload freight distributing point?

Q. Yes.

A. Well, it would naturally be Lake City.

Q. Lake City is larger than all the other little points in there combined, isn't it?

A. In what respect, population, you mean?

Q. Yes.

A. Apparently so, yes.

Q. It is also more important as a freight distributing point, isn't it?

A. Less carload freight.

Q. Yes.

A. Yes.

Q. The reason you make the distinction as to less carload freight is that you have your own operation that goes through the little town of Baldwin, isn't that it, which is important to you because northbound expedited refrigerated fruit movements go through that point, is that not [fol. 1873] correct, and therefore it is important to you although not important as a freight distributing point, isn't that correct?

A. On that basis, yes.

Q. The net result of your voluntary restriction on the consolidated 9 and 10 from Jacksonville to River Junction would provide distribution point for package cars moving to the west but not toward the east, isn't that right?

A. Yes, on that, that is right on the first restriction on that route.

Q. But you would in addition like to be unrestricted on the freight for the—what point other than the larger ones we have named?

A. Moving from Jacksonville, yes.

Mr. Abeles: You mean west?

By Mr. Inglis:

Q. You say the Jacksonville-River Junction operation is wholly within the State of Florida?

A. Yes, sir.

Q. State at what points you interchange with carriers having operations that are physically across state lines, beginning, of course, with Jacksonville on the east, what is your next point going west?

Mr. Abeles: Point of interchange.

By Mr. Inglis:

Q. Interchange or transfer in some instances, they are your own lines in other instances, they are lines of other [fol. 1874] carriers?

A. At Lake City we have the Southern Railroad or the Georgia-Southern and Florida as it is known in that part of the country.

Q. You have at Baldwin your own lines coming down from the north, do you not?

A. Yes, sir.

Q. Is any freight transfer from that line coming into Baldwin to the Jacksonville River Junction Line?

A. We have no l. c. l. transfer at Baldwin.

Q. Then your first one is at Lake City, which is the Southern or the old G S & F, is that right?

A. That is right.

Q. Then you have the L O P & G at Live Oak, do you?

A. That doesn't go out of the State of Florida.

Q. That is connected with the Atlantic Coast Line, isn't it a physical connection is possible over the L O P & G, we will say?

A. Well, we have a physical connection with L. O. P. & K.

Q. Physical connection across state lines is possibly across state lines with the ACL and L O P & K?

A. Yes, sir.

Q. What is the next point?

A. At Madison we have the Georgia and Florida Railroad.

Q. The next one?

[fol. 1875] A. At Greenville we have the South Georgia Railroad.

Q. The next one is Drifton, isn't it, or Monticello?

A. Well, the interchange would be at Drifton, that is with the Atlantic Coast Line Railroad.

Q. Drifton is just out of Monticello, isn't it?

A. It is about three and a half or four miles over there. Monticello is on the branch, Drifton is on the main line. Monticello is just a little branch line.

Q. Then over further on, you have interchange point, Tallahassee, do you not?

A. Only with our own lines.

Q. But you can get interstate freight into the territory through Tallahassee, can you not?

A. Yes, sir.

Q. The same applies at Quincy, does it, the same applies from Quincy to Havanna, does it?

A. No, there is no physical connection through Quincy and Havanna to an interstate line, is that what you say about that?

Q. That is the rail connection?

A. I say there is no physical connection between the rail line from Havanna to Quincy and the main line from Tallahassee to Quincy or through Quincy to River Junction.

Q. At what point do you connect with the Appalachiacola-Northern?

[fol. 1876] A. At River Junction.

Q. You also connect with the L & N at River Junction?

A. That is right, and with the Atlantic Coast Line.

Q. Do you connect with any other line at River Junction other than the Appalachiacola-Northern, the Louisville and Nashville and Atlantic Coast Line?

A. That is all.

Q. The population is shown at River Junction of 7110 according to the 1940 census. That includes a very large population at the State Insane Asylum there, doesn't it, Mr. Arnold—in other words, River Junction is a community except for the State Insane Asylum, is a very small village, isn't that right?

A. I don't know whether that population figure includes the Insane Asylum or not. I couldn't tell you that. It seems to me there was some extension of corporate limits there a while back. Recently they have changed the name from River Junction to Chattahoochee.

(Discussion outside the record.)

By Mr. Inglis:

Q. The point is true, however, is it not, Mr. Arnold, that River Junction is not an important distributing center of itself with the exception of the State Insane Asylum?

A. No, sir.

Q. River Junction's importance in your transportation [fol. 1877] system is an interchange point with the three lines you have just mentioned, is that right?

A. Principally.

Q. Therefore, freight received by your line at River Junction consigned in the direction of Jacksonville is freight that has had in almost every instance previous interstate carriage, isn't that right?

A. I think possibly you are correct in that. Well, I am sure you are, because that is the overhead traffic coming in there from New Orleans and River Junction and places of that kind.

Q. Overhead traffic coming in from Montgomery and Birmingham there, too, does it not?

A. No, sir.

Q. Where do you get that?

A. We get that at Montgomery from Birmingham?

Q. Montgomery or Columbia?

A. That is if you can control the routing, you would get it there.

Q. You don't have any figures as to how much of that traffic received at River Junction might be delivered on the way to such point as Quincy, Tallahassee, Monticello, Madison, Live Oak, or Lake City, do you?

A. I am sorry, I haven't, as I have previously stated.

Q. Do you know, Mr. Arnold, whether your less carload traffic out of Jacksonville on the Jacksonville River June-
[fol. 1878] tion Line is predominantly westbound or eastbound?

A. Well, it is predominantly westbound.

Q. Being predominantly westbound, there is some empty space in a truck that can be used to transport less carload freight from River Junction toward Jacksonville presumably, isn't there?

A. Well, there might be empty space on the truck with any point or between any point. Your overhead traffic from Jacksonville to River Junction is handled in the package car and the same way from River Junction to Jacksonville. By Jacksonville, handling the traffic in package cars to Lake City, Live Oak, Madison, Tallahassee, Quincy, and River Junction, it may be that that traffic that is on the truck in view of the fact the truck picks up at all these points, there may be differences or it may be balanced. I couldn't answer that without some more detailed figures.

Q. Let's start that operation in the other direction and assume that you have a shipment of 100 pounds of, say, books from New Orleans to Monticello. How would that be handled?

A. It would be handled on the truck from River Junction to Monticello.

Q. You have no package cars under your present operations that are set off eastbound at Quincy, Tallahassee, Madison, Live Oak, Lake City, or Jacksonville, do you?

A. Eastbound?

Q. Eastbound?

[fol. 1879] A. No, sir.

Q. Package cars eastbound to which you had reference are package cars for Jacksonville, aren't they?

A. That is right.

Q. Rather than to any of the other points named, is that correct?

A. That is correct.

Q. You told Mr. Beall that the Seaboard operated some truck lines that are not shown as truck lines on your Exhibit 1 here?

A. Well, this exhibit 1 includes only the truck lines in this proceeding here.

Q. That is correct, but you have other truck operations in there, haven't you?

A. Yes, sir.

Q. Do you mind telling us what restrictions, if any, there are imposed on your Jacksonville-Tampa truck operation?

Mr. Abeles: Just a moment. I hesitate to object to Mr. Inglis' questions, because up to this time they have been very pertinent, I think, but I must break my silence at that point. We haven't those cases before us here.

Exam. Livingstone: That is not at issue in this application here.

Mr. Inglis: I would like to explain my reason for ask-
[fol. 1880] ing the question. Of course, it is your prerogative to rule it out or not. The purpose behind my question is to demonstrate that there are at present some rather extensive unrestricted truck operations in Florida controlled and operated by the Seaboard, that is all I expect Mr. Arnold to state. I expect the Examiner to deduce from that and the petition for modification that they would like to have them all from under restriction.

Exam. Livingtone: The objection is sustained.

Mr. Inglis: I presume you will make the same ruling, but I want to ask you about your Tampa-Tarpon Springs-Newport Richey-Brooksville truck operation. Is that operation under any present restrictions or impediment as to key stations or prior rail hauls or the like?

Mr. Abeles: Mr. Examiner, and Mr. Inglis, for your information these routes to which you are now referring, and that includes the Jacksonville-Tampa route, have not been finally acted on by the Commission, so we don't know what is going to be imposed on us.

Exam. Livingstone: It would be perfectly all right if you explain, as I believe is the case, grandfather applications

as to some of this, but I don't know exactly what is going to happen.

Mr. Abeles: That is right. In objecting, I didn't mean to keep the information from you. I just meant to keep the [fol. 1881] record straight.

(Discussion outside the record.)

By Mr. Inglis:

Q. Let's go south a minute from Tampa toward Sebring, does that operation follow State Road 79 except for the off shoot up to Winter Haven.

A. Well, it comes over some other route out of Tampa until it hit 79, if you refer to 79 as the highway from Mulberry to Lake Wales, without a Florida highway map, I couldn't answer your question specifically.

Q. I will ask you another, what does it go by way of the small towns of Brandon, Valrico, Hopewell, Mulberry, then into Bartow and Lake Wales, and thence south on state road 8, go south on state road 8 from Lake Wales, through Babson Park, Frost Proof, Avon Park to Sebring, is that the general route followed.

A. It goes from Tampa over Florida Highway 23 to intersection with U. S. 41, U. S. 41 to intersection with Florida 79.

Mr. Inglis: Let me state there on the map that is just outside the city limits of Tampa, then you are now on state road 79.

Exam. Livingstone: What is the purpose of this line of questioning?

Mr. Inglis: The purpose of this particular question is to show that operation there is the exact duplicate operation of two other truck line operations.

Exam. Livingstone: If you will read the hearing notice [fol. 1882] again, it is solely to determine whether Condition 3 as set forth in the prior report, 28 M. C. C. 5, should be modified, and if so, the extent of such modification.

Mr. Inglis: What does the Examiner understand Condition 3 to be as to this operation?

Exam. Livingstone: I am sorry, indeed. Proceed.

Mr. Abeles: I would still like to follow that inquiry, Mr. Inglis, and ask whether your questions as to the exact route followed is in connection with competitive truck service,

and if so, what bearing that may have upon the key station, which is before us here.

Exam. Livingstone: There are several respects in which the inquiry is entirely pertinent. The first is to increase understanding of what the thing is all about, which is recognized as one of the very good grounds to put testimony in, and second is the distinction between this operation and the bulk of the other subs involved in this case, and third, is to show the competitive aspects, and fourth is to show that here is an operation in excess of 200 miles without a single key station on it, and the only restriction at the present has to do with prior rail hauls which the petition for modification in an almost offhand sort of way. I think the facts are extremely pertinent here.

Mr. Abeles: I am going to object to any questions except those relating to competitive motor vehicle service.

[fol. 1883] Mr. Inglis: It is not of great importance as to whet-er Mr. Arnold testifies to other truck lines duplicating the right or some other witness does it.

Mr. Abeles: I haven't offered Mr. Arnold at all with reference to other routes as you know.

Mr. Inglis: I know you haven't. It is necessary to identify the routes so we can show that there are two truck lines duplicating it exactly.

Mr. Abeles: If you are allowed to show it.

Mr. Inglis: Which I will offer. The route goes east from Tampa by the principal highway of State road 79, through Mulberry and Bartow to Lake Wales, thence south over state road 8, through Babson Park, Frost Proof, Avon Park and Sebring, is that not a correct general description of the operation?

The Witness: It does not serve Babson Park or Frost Proof. They are not stations on our railroad, that is a general correct statement as to the road or route that the truck follows, yes, except that from Bartow, to Winter Haven, it uses U. S. No. 17 and then backs up on some county road of some kind to get back on No. 79 where it goes on to Lake Wales.

By Mr. Inglis:

Q. How do you get from Lake Wales to Avaon Park?

A. This says from Lake Wales over Florida highway 8 to Sebring.

[fol. 1884] Q. You serve all immediate points?

A. We serve Avon Park and Sebring.

Q. Do you serve the other immediate points?

A. I just told you we do not serve Babson Park and Frost Proof because they are not on our railroad.

Q. You do not serve any point on State road 8 south of Lake Wales except Avon Park and Sebring. I mean by truck, of course.

A. Yes, we are speaking of trucks. No. We serve Avon Park and Sebring with the truck.

Q. Is there a closed door restriction on your operation from Lake Wales to Avon Park?

Mr. Abeles: You are speaking of interstate now?

Mr. Inglis: Yes.

The Witness: There are the restrictions that we can not serve a station not on our railroad. That is condition one or two. I don't recall which of the order.

By Mr. Abeles:

Q. Neither Frost Proof nor Babson Park are on the Seaboard Railroad, by which we mean rail line.

A. That is true.

Q. Between Sebring and Tampa by the route you actually follow, which are the important distributing points, if you include Lake Wales, Winter Haven, Bartow, Mulberry and Avon Park. Do you distribute in each of those communities?

A. I don't get you. We deliver freight to each of those [fol. 1885] communities. I don't know exactly what you mean by do we distribute.

Q. How do you make those deliveries?

A. We put them in our stations by the line haul truck.

Q. Do you then offer pick up and delivery from the station out to the consignee's place of business in those places?

A. Yes, sir.

Q. That is done by contract?

A. Yes, sir.

Q. And you do that in what points?

A. We do it in Bartow, Winter Haven, Lake Wales, Avon Park, and Sebring. I am sure it is done in Mulberry, but I couldn't be positive about it of my own knowledge right at this moment.

Q. What interstate interchange points or transfer points are there on that Tampa-Sebring route?

A. You mean with other rail line that might reach interstate points?

Q. Yes, sir. I would like to include all possibilities. What I am interested in are the ones that are actually used.

A. Actually used, I don't know just what you mean by that. I can tell you where we connect with other railroads and interchange freight with them.

Q. That is what I really want to know, let's have that.

A. We connect with the Atlantic Coast Line Railroad at [fol. 1886] Winter Haven and at Bartow and at Mulberry and Tampa. Atlantic Coast line is also at Avon Park and Sebring. That is all.

Q. Do you handle freight over that truck operation that is interchanged or transferred at all those points or does most of that freight come through Tampa?

A. Most of it comes Tampa. There wouldn't be very much of it interchanged with the Atlantic Coast line at those points, less—I mean LCL freight.

Q. You are under present restriction against interchanging interstate traffic with coastwise steamship lines at Tampa, aren't you?

A. Yes, sir.

Q. But you have no key stations on that operation?

A. None have been made.

Q. Do your reports to the Interstate Commerce Commission or to the Florida Railroad Commission show separately the tonnage and revenues of the rail and truck operations at the present?

Mr. Abeles: I object to the Florida Railroad Commission at the present. If you confine your question to the Interstate Commerce Commission, that is all right.

Mr. Inglis: I am interested as to the form as to both. Perhaps the Examiner will let me ask him if he filed such reports. I still want to know.

Exam. Livingstone: You may answer.

The Witness: I believe I have stated we do not report [fol. 1887] the revenues separately. Mr. Beall has called attention to a report that is made, an account report that shows the tonnage handled by truck.

By Mr. Inglis:

Q. You have to file report showing the miles traveled for mileage tax purposes in Florida, too, don't you?

A. I think so.

A. Yes, sir.

Q. Mr. Arnold, who determines whether you are going to operate a package car to a particular point or not?

A. Well, sometimes that is something that may happen from day to day for a regular car, but when a regular set up is put in, that is done by conference between the traffic and the operating departments and determined under all conditions that may be involved in the individual place or situation.

Q. Is it not a matter within the management or the managerial discretion of the railroad?

A. Yes.

Q. It is also within the discretion of the railroads management as to cars loaded daily for Live Oak, for example, would contain freight for a point beyond Live Oak, such as Falmouth or Falmouth Springs, wouldn't it?

A. I don't believe Falmouth Springs is on our lines. Falmouth itself is a non-agency point, but as I undertand your question, it was managerial discretion as to how freight would be handled to Falmouth, is that what your [fols. 1887a-1888] question is?

Q. My point is it is within the discretion of the management as to whether freight for points beyond points to which you now operate package cars is in fact included in the same package car or handled by some separate conveyance—in other words, the management of the railroad determines what vehicle will carry a particular shipment, that is true, isn't it, obviously so?

A. Why sure.

Q. It is also true that the management of the railroad determines the closing time for the warehouses in Jacksonville and in Tampa, isn't it?

A. Can't we shorten it up a bit by saying it is in managerial discretion to determine any fact of operation, closing time, closing trains or any other feature or matter?

Q. I will be glad to have you state that, yes, which is another way of saying the net result of your application here, since you hinge the question of whether or not there will be key stations on your manner of operation, you end

up with the contention that you shouldn't have key stations except where in the managerial discretion they are desired, isn't that right?

A. That is what we would like to have very much, yes.

Q. That is what your testimony says. I think that is all.

Exam. Livingstone: We will adjourn at this time until 9:30 tomorrow morning.

(At 5 o'clock, p. m., November 12, 1941, hearing adjourned to 9:30 a. m., November 13, 1941.)

[fols. 1889-1890] Before the Interstate Commerce Commission

Docket Nos. MC 86687 and MC 86687 Subs 1 to 10, 15, 18 and 19

SEABOARD AIR LINE RAILWAY

(Legh R. Powell, Jr., and Henry W. Anderson, Receivers)

Raleigh, North Carolina, November 13, 1941, 9:30 a. m.

Before V. J. Livingstone, Examiner

Appearances: As heretofore noted.

[fol. 1891] Proceedings

Exam. Livingstone: Are protestants ready now?

Mr. Smiley: Yes.

Mr. Inglis: I have a question or two more but suppose Mr. Smiley goes ahead.

Exam. Livingstone: All right.

Mr. Smiley: Mr. Examiner, before beginning any cross-examination, I want to state my position, and that is that an investigation ordered to determine whether or not the key point restrictions should be modified must logically and of necessity take into consideration the possible and probable effects of any such modification. It is for the Commission to determine whether or not the proposed modifications will materially affect or change the premises or conditions under which the original orders were granted. If after investigation the Commission finds that the modifica-

tion will not materially affect or change the proposed fundamental conditions, then it will not be difficult to determine to what extent my cross-examination will be directed to determine the fact of the modifications.

Exam. Livingstone: Was there a further appearance this morning?

Mr. Koonce: I believe R. C. Atwood put in an appearance for the Motor Transit Company yesterday and it will not be necessary for me to put in my appearance.

[fol. 1892] Mr. Abeles: Had you finished?

Mr. Smiley: Yes, with one exception. I would like to know, in order that my cross-examination stays strictly in line with what has gone on before; as I understand it, the original case on the sub numbers here under consideration were all originally certified convenience and necessity cases, that the original orders on all cases came out July 11, 1939, and on appeal by the applicant there were modifications made in the original orders on January 24, 1941. Is that correct, Mr. Abeles?

Mr. Abeles: That is correct.

Exam. Livingstone: That is correct.

Mr. Smiley: Then, I would like to know this, and either Witness Arnold or counsel may answer, in appearing in the original cases, did you propose to operate a truck service coordinated with an auxiliary or supplement to the rail service through the use of break-bulk or key points to and from which you would operate both package cars and highway equipment?

Mr. Abeles: No, the break-bulk or key points was never injected in these cases until the order and report of January 24, 1941. In the original cases there was no mention made—on some of the routes, but not all—of the purpose to utilize key points as the distribution origins of the truck service, [fol. 1893] but that was only a few instances and there was no commitment at that time that the proposed truck service could or should be used only in connection with so-called break-bulk points. Does that answer your question?

Mr. Smiley: Well, yes and no. I was attempting to determine where, from what record, the Commission got the list of points which are shown in red on your Exhibit No. 1, which apparently they have placed as key points, in the order of January 24, 1941.

Mr. Abeles: I don't get the import of your question, only on the original application, and it is quite evident, I think,

from the key points designated in the order of January 24, 1941, that they were to a certain extent selected arbitrarily, because the records in the original cases were wholly inadequate to determine a proper selection of key points, because at that time, at the time the hearings were held, the key points had not been formulated, and consequently the evidence was not directed to that plan.

Mr. Smiley: Even though the record was not directed to that plan, is it a fair assumption that the points so selected were, in a greater part at least, used by your witnesses to show the points at which there would be some connection with the rail service whereby to accomplish the auxiliary and supplementary service you wanted to start?

Mr. Abeles: I should say no, largely no. That is why [fol. 1894] I say to a very large extent the selection of the key points in the order of January, 1941, was of necessity arbitrary because there was no record on which they could be made. I will add that, without intending any criticism of the Commission because it did the best it could with the record before it.

Mr. Smiley: After having received the orders of the Commission, then, authorizing these certificates for the routes that you have shown on Exhibit 1, then, as I understand it, the applicant went to the Commission for the purpose of eliminating that restriction which required subsequent or prior rail service in the handling of the traffic?

Mr. Abeles: That is correct. That petition was filed April 28, 1941.

Mr. Smiley: Then, as a result of that petition, hearing and argument before the Commission the key point restrictions now named in restriction 3——

Mr. Abeles: I beg your pardon, that original petition was not filed April 28, 1941. I haven't got the date of it.

Mr. Smiley: That is immaterial. Will you read the question, please.

(Question read by the Reporter.)

Mr. Smiley: Were applied against your certificate?

Mr. Abeles: That is correct.

Mr. Smiley: And it is the elimination of at least a part [fol. 1895] of those key points which you seek in this proceeding?

Mr. Abeles: That is correct.

Mr. Inglis: May I interpose this suggestion here, Mr. Examiner, that, Mr. Abeles, what Mr. Smiley and you have discussed is generally true of these truck operating rights, but does not apply in the case on the Jacksonville-Live Oak, or Supplement 9 segment, nor in a case of the Tampa-Sebring, Supplement 19, section, in either of those key stations, do they?

Mr. Abeles: That is correct in the order, but they were covered in the order of January, 1941.

Mr. Inglis: But not by your petition for modification?

Mr. Abeles: No, that is correct.

Mr. Smiley: May I inquire whether or not the interstate routes shown on exhibit No. 1 are identical with any intrastate routes which you may have? I am not interested in the intrastate angle; I just want to know whether or not, for example, in the Hermitage, Virginia, and the Virginia-North Carolina state line, if you have intrastate rights there duplicating the routes that are used for your interstate service.

Mr. Abeles: In most cases we have intrastate rights corresponding to the interstate routes, I will answer that.

Mr. Smiley: As far as Virginia, — Carolina and South Carolina are concerned, on your Exhibit No. 1, can you point [fol. 1896] out there any interstate routes that do not have intrastate routes?

Mr. Abeles: Unless you can explain why you want to know that or what relevance it has—I think we will probably take up a lot of time unnecessarily.

Mr. Smiley: The need for it will show a little later; we won't press it at the moment. Now, Mr. Arnold——

Mr. Abeles: May I interrupt. I would like to find out whom you represent.

Mr. Smiley: I represent a group of carriers, motor carriers, in the Mississippi Valley area. Do you want their individual names?

Mr. Abeles: How many are there?

(Discussion outside the record.)

Mr. Smiley: Campbell Sixty Six Express, Inc., Powell Brothers Trucking Line, Inc.,——

Mr. Abeles: When you state the names of the carriers can you give us the territory they serve?

Mr. Smiley: Yes. Going back to Campbell Sixty Six Express, Inc., Chicago to St. Louis to Joplin, Missouri

and Ft. Smith, Arkansas; Powell Brothers Truck Lines covers practically the same territory, plus operations to Oklahoma City, Oklahoma, and Little Rock, Arkansas; Highway Express, Inc., St. Louis, Missouri, to Memphis, Tennessee, and Memphis, Tennessee, to Little Rock, Arkan-
[fol. 1897] sas; Gordon's Transport, Inc., Chicago via St. Louis, Memphis to New Orleans, from Oklahoma City via Little Rock, Memphis to Birmingham; Potashnick Local Truck System, Inc., that is to St. Louis, Little Rock, St. Louis, Memphis, serving southeast Missouri and northeast Arkansas and western Illinois.

Mr. Abeles: All of them, apparently, serve this same general territory, all of your clients—is that correct?

Mr. Smiley: Generally in the Mississippi Valley, that is right.

Mr. Abeles: And none of them serve any of the territory which is directly involved in these particular proceedings. That is, you don't operate in Virginia, South Carolina, North Carolina, Florida or Georgia?

Mr. Smiley: Gordon's Transports would interchange with carriers at Birmingham.

Mr. Abeles: I am not speaking of interchange.

Mr. Smiley: Direct competition, no, sir.

Mr. Abeles: Mr. Examiner, I fail to see that Mr. Smiley's clients have any such interest in this proceeding as would entitle him to intervene. Of course, it is true, perhaps, that where interstate business by motor carriers is involved, every part of the country may be interested in every other part of the country because of the wide movement of traffic involved, but it seems to me there must be something more direct and more substantial than merely the interest of
[fol. 1898] a connecting carrier, and in these cases a rather remote connecting carrier, with the operation which is under consideration. If the Commission is going to throw all these hearings open to intervention on the theory that Mr. Smiley is appearing on, every carrier in the country could appear and make his representation.

I should say, perhaps, at this point I have raised this same objection heretofore and failed to get any ruling either from the Examiner of the Commissioner, and I should like to ask the Examiner to take a position directly on that point.

Exam. Livingstone: Yes, Mr. Smiley will be permitted to continue as an intervener.

Mr. Abeles: May I ask the Examiner to hold his ruling in abeyance until through cross-examination the interest of his clients may or may not appear?

Exam. Livingstone: You are interested in the principle of this case, are you not? As a precedent?

Mr. Smiley: We see it as a part of a nation-wide effort on the part of the railroads to get into the all-out trucking business and we are engaged today—the carriers I have mentioned—in litigation before the Commission involving the very same fundamentals as are involved in this case. I might say the American Trucking Association, which represents our industry as a whole, is here and they have been [fol. 1899] permitted to take part in this case. In my case I represent some actual carriers that are a part of the industry which Mr. Beall represents.

Exam. Livingstone: You may proceed.

Mr. Inglis: May I say a word. One of the points involved in these proceedings, as we see it, is the matter of competition and restraints on competition. That is the matter which the Commission should carefully consider in modifying restrictions on certificates. Here is a case where railroads got a right and didn't operate them in part, yet other railroads may or may not in this particular locality be conducting similar operations; but in other parts of the country we do have railroad operations of various kinds. That is the only evidence that can be offered to show the direct, actual effect of this kind of competition, and we will have to draw, before this case is over with, on other locations to show what happens to trucks when railroads get truck rights parallelling.

Exam. Livingstone: You may proceed.

C. D. Arnold was recalled to the stand and testified further as follows:

Cross-examination (Cont.).

By Mr. Smiley:

Q. Mr. Arnold, do I understand correctly that the original motor carrier operations of the Seaboard were started in 1932, original truck operations?

[fol. 1900] Mr. Abeles: That is approximately correct.

Mr. Delaney: That is correct.

Mr. Smiley: I will take counsels' statement.

By Mr. Smiley:

Q. In the area along the routes where you have operated these truck operations, has the railroad abandoned agency stations?

Mr. Abeles: I object, Mr. Examiner.

Exam. Livingstone: What bearing does this have on this case?

Mr. Smiley: I won't press it.

By Mr. Smiley:

Q. In the operation of your truck line, am I correct in assuming that you use your railroad local agents, solicitors, perhaps various other employees in carrying on the operations of your truck line?

Mr. Abeles: I object, Mr. Examiner. That involves the traffic aspect of motor operations. I would like to make it clear at this point, unmistakably clear, that while the Examiner has been, I think, quite liberal in permitting questions of witnesses which have, if any, a most remote materiality, I have reached the point now where I am going to persist in objections to questions which don't have immediate and material connection with the only issues before the Commission in this proceeding, namely, the extent, if at all, to which Condition 3 in the order of January 24, 1941, should be modified. That question, to my mind, is [fol. 1901] so far afield that it can't conceivably have any relation——

Exam. Livingstone: What relation does that have?

Mr. Smiley: The manner in which this railroad operates the truck line.

Exam. Livingstone: We have certain key points that are named. Now, the only thing at issue in this case is the elimination or addition of additional key points.

Mr. Smiley: I don't agree with you, sir. The manner in which this company operates, whether or not key points are retained, all affects its operation.

Exam. Livingstone: That is true. What part does solicitation have?

Mr. Smiley: I want to determine, it is going to be my next question, if Mr. Abeles will let me alone there is going to be some very good evidence brought out here this morning that you won't like.

Exam. Livingstone: Go ahead.

(Question read by the Reporter.)

By Mr. Smiley:

Q. Have you a separate establishment of employees to operate your truck line or do your railroad employees also serve either mechanical, over the road, traffic, solicitation, accounting or any other function in operating the truck line?

Mr. Abeles: I am going to object to that question because again it seems to me it is so far afield it can't have the re-
[fol. 1902] motest connection with the issue.

Exam. Livingstone: Sustained.

Mr. Smiley: Note our exception.

Mr. Inglis: On that point, I think Mr. Smiley's question is so correct and goes to the simple subject of this inquiry so cogently and so basically that I want to have my exception also to that one.

Exam. Livingstone: All right, sir.

Mr. Smiley: Let's determine if we can just what sort of an applicant is here before the Commission. I will tell Mr. Abeles in advance that is the purpose of these questions.

By Mr. Smiley:

Q. Mr. Arnold, as the assistant to the general manager of your road, is it the conception of your management that you are a single common carrier using both highway and rail services inseparably, or do you conceive yourself to be an organization with two separate conditions, or entities, one of which operates as a rail carrier and the other operates as a highway carrier?

Mr. Abeles: I object on the ground that calls for a legal conclusion, which the witness is not competent to answer, on the further ground it has nothing whatsoever to do with the issues in this case.

Exam. Livingstone: Well, you may answer that, Mr. Arnold.

The Witness: I understand that this question is whether
[fol. 1903] we have an entirely separate organization to handle the truck operations.

By Mr. Smiley:

Q. As the management, do you figure you have two different types of transportation facilities under your one head or is there one common carrier organization that you can't tell apart?

Mr. Abeles: The facts are all in the record. Mr. Smiley is asking for a conclusion from those facts, which it is the function of the Commission to draw and not of the witness.

Exam. Livingstone: I fail to see what importance that has, Mr. Smiley.

Mr. Smiley: Counsel is referring to records not a part of this proceeding that we wouldn't be able to use in briefing this case, this particular hearing.

Exam. Livingstone: Do you have a copy of the final report in this case?

Mr. Smiley: No, not with me.

Exam. Livingstone: Here is one of January, 1941.

Q. Then, you are unable to state whether the rail——

Mr. Abeles: I object to that question if it is going to repeat the question he has just put, objection to which has been sustained.

Mr. Smiley: I will put it this way.

[fol. 1904] Q. Are you here as rail carrier operating a common carrier motor truck line, or not?

Mr. Abeles: I will answer that question. That is a legal conclusion. We are here as a motor carrier operating under the Motor Carrier Act of 1935.

Mr. Smiley:

Q. Are you here as a rail carrier operating as a motor carrier?

Mr. Abeles: We are here as a motor carrier operating as a motor carrier.

Mr. Smiley: I think the Examiner sees the purpose of trying to find out the status of this applicant.

Mr. Abeles: Also there has been no disposition on our part to disclaim the jurisdiction of the Commission over these operations.

Exam. Livingstone: The applicant in this case is the Seaboard Air Line Railway Company by its trustees, which would seem apparent it is the railway company.

By Mr. Smiley:

Q. Now, you had some testimony, Mr. Arnold, concerning rail interchange points. Was that testimony all-inclusive? Did you not in that testimony include all the points at which you interchanged freight with other rail carriers?

A. The question was only asked in two localities. It did not include all interchange points on the system, if that is what you mean?

[fol. 1905] Q. Let's run through them quickly. At Richmond you interchange generally with all rail lines, do you not?

A. Yes, sir.

Q. How about Petersburg? Is there any interchange at Petersburg with other rail carriers?

A. Yes, sir.

Q. How about Henderson?

A. Well, there is some little interchange there with the Southern Railroad. That is a branch line of the Southern.

Q. How about Raleigh?

A. Yes, sir.

Q. How about Apex?

A. Apex is an interchange point with the Durham and Southern Railroad.

Q. How about Sanford?

A. We have Atlantic Coast Line, Atlantic and Yadkin and the Atlantic and Western Railway.

Q. How about Southern Pines?

A. None at Southern Pines.

Q. How about Aberdeen?

A. Aberdeen and Rockfish and the Norfolk and Southern.

Q. Hamlet?

A. No other railroad.

Q. Monroe?

A. No other railroad at Monroe.

[fol. 1906] Q. Charlotte?

A. We have the Southern Railroad, the Norfolk and Southern, the Piedmont and Northern.

Q. Lincolnton?

A. The Carolina and Northwestern Railroad.

Q. Shelby?

A. The Southern Railroad.

Q. Ellenboro?

A. No other railroad there.

Q. Laurinburg?
A. Laurinburg and Southern Railroad.
Q. Maxton?
A. Atlantic Coast Line Railroad.
Q. Pembroke?
A. Atlantic Coast Line Railroad.
Q. Lumberton?
A. Virginia and Carolina Southern.
Q. Bladenboro?
A. No other railroad.
Q. Wilmington?
A. Atlantic Coast Line Railroad.
Q. It isn't necessary that you give the road, you can say yes if there is any interchange. Cheraw?
A. Yes.
Q. McBee?
[fol. 1907] A. No.
Q. Columbia?
A. Yes.
Q. Clinton?
A. Yes.
Q. Greenwood?
A. Yes.
Q. Gaston?
A. No.
Q. Swansea?
A. No.
Q. North?
A. No.
Q. Denmark?
A. Yes.
Q. Fairfax?
A. Yes.
Q. Estill?
A. No.
Q. Garnet?
A. No.
Q. Now, please refer to your Exhibit No. 1. Let's take your Sub 7 route, the route between Richmond, Virginia, and Henderson. Now, as I understand, from your testimony, do you intend and propose to retain the operation of [fol. 1908] package cars as follows: Richmond to Petersburg and Richmond to Henderson; Henderson to Petersburg and Henderson to Richmond?

A. No, not Henderson to Petersburg.

Q. You do not intend to retain one, Henderson to Petersburg?

A. No, sir.

Q. What time does your package car leave Richmond and arrive at Petersburg, the one destined for Petersburg?

A. It leaves Richmond—I believe I covered that. It would leave Richmond at 8 p. m.

Q. And arrive Petersburg when?

A. Depending upon the work that that train has to do. It would arrive there sometime during the night prior to midnight.

Q. We will put it down, then, it arrived prior to 12 midnight. What time would the package car leaving Richmond on the same train reach Henderson?

A. That train doesn't go through Henderson. That train wouldn't handle the Henderson package car.

Q. What time would the Henderson package car arrive out of Richmond?

A. About 10:45 p. m.

Q. Now, at what time do you make your local deliveries in Petersburg on traffic originating at or received by you at Richmond?

A. That would commence with the opening of the warehouse, I believe it is 8 o'clock there.

[fol. 1909] Q. Is this car from Richmond put to the warehouse on arrival?

A. No, it isn't put there until the switch engine goes on duty about 8:30.

Q. It wouldn't be available for delivery until after 8:30?

A. No.

Q. That is a situation you could change by putting your switch engine to work earlier, is it not?

A. Well, yes, you could change that in that time by putting on another engine, by putting the engine on earlier, if there are other conditions surrounding the operation at Petersburg were such as required it.

Q. I note again on your suggested restriction you state you're willing to be restricted against handling traffic between Richmond and Petersburg?

Mr. Abeles: No.

By Mr. Smiley:

Q. Traffic originating at Petersburg destined for Richmond or Richmond destined for Petersburg?

A. I said from Richmond to Petersburg proper but not traffic moving from Richmond through Petersburg to points between Petersburg and Henderson.

Q. Thence, I understand it, your manner of handling traffic that either originates at Richmond or is received there by you by interchange——

Mr. Abeles: I want to point out originating at Richmond delivered to Petersburg is intrastate, which has nothing to [fol. 1910] do with it.

Mr. Smiley: I am speaking of interstate traffic now, destined for Petersburg.

Q. You now handle that in such manner as to be satisfactory, is that right?

A. I think I would say so. I think that was stated.

Q. Now, referring to your prepared testimony, Page 4, I note that you state that this service on this particular route was designed so that you could perform certain services. What services was it that you designed this route for?

A. The distribution and picking up of l. c. l. freight between Richmond and Henderson.

Q. Now, you can handle intrastate freight anywhere you want to, can't you?

Mr. Abeles: Object.

Mr. Smiley: I want to eliminate the question of intrastate freight entirely. I am asking——

Mr. Abeles: I object to the question.

Exam. Livingstone: You may answer.

The Witness: With the exception of Richmond and Petersburg at the present time.

By Mr. Smiley:

Q. Any freight, interstate freight, that is what my question is going to be directed to, orginating at Richmond, must of necessity come to you from another carrier—is [fol. 1911] that correct?

A. Yes, sir.

Q. And if destined——

Mr. Abeles: You mean destined to this route?

Mr. Smiley: Destined to this route, of course.

The Witness: That is what I thought he meant.

By Mr. Smiley:

Q. So that any of that traffic destined to any point down to and including Henderson, that type of traffic has already had a prior rail service, has it not?

I would just as soon counsel wouldn't sit there shaking his head no.

Mr. Abeles: I want to keep the record straight. I want to say this does include a part of North Carolina.

Mr. Smiley: I will change that to any point in Virginia would have to have prior rail service.

The Witness: From Richmond in.

By Mr. Smiley:

Q. Would have to have prior rail service. We are agreed on that.

A. From any point from Richmond south.

Q. Now, any interstate freight originating at any point on the Seaboard south of Richmond destined to Richmond or points beyond must either be received from another rail carrier or be given to another rail carrier at Richmond to move beyond Virginia. Is that correct?

A. That is correct.

[fol. 1912] Mr. Abeles: That question is traffic originating in Virginia?

Mr. Smiley: Yes, interstate traffic.

The Witness: Interstate traffic originating in Virginia.

By Mr. Smiley:

Q. Therefore, as to interstate traffic as to any Virginia point on this route, that traffic under your proposed handling must have had or will receive rail service?

A. That is correct.

Q. Now, at the present time I understand that you load package cars at Henderson for Petersburg and Richmond and one for LaCrosse. I think you will find that on page 7 of your testimony.

A. I stated that regular package cars are operated on this route only from Richmond to Petersburg. Richmond to Henderson, Petersburg to Richmond, and Henderson to

Richmond. There is no package car operating from Henderson to Petersburg.

Q. Now, what is this car you load at Henderson which is set out at LaCrosse?

A. That is a car that contains shipments for distribution between LaCrosse and Petersburg.

Q. Now, under your present authority you can now handle traffic originating at Henderson, either locally or by interchange with other rail carriers, destined to points in North Carolina or to points in Virginia up to Petersburg by truck—isn't that right?

[fol. 1913] A. No.

Q. Say my question runs on the question they are operating these truck lines they have certificated authority for it they can start tomorrow if they want to with the restrictions. In view of that, any interstate freight which comes into your hand at Henderson, North Carolina destined for that point up to but not including Petersburg, you can now handle by truck? If you will observe your own Exhibit 1, Petersburg is the first key station shown north of Henderson.

Mr. Abeles: You asked first if under our present authority we could; under our present authority, the only restriction is the prior or subsequent rail haul authority. Are you speaking from the standpoint of the key station restrictions or from the standpoint of the prior or subsequent rail haul restrictions? That is all I am trying to get.

Mr. Smiley: The Examiner has just told you you can operate now under your key point order if you wanted to. Is the Examiner right or are you right?

Exam. Livingstone: Is that true?

Mr. Abeles: No, that is not true because the order of January 24, 1941, has been suspended.

Exam. Livingstone: You are operating under the prior report, the prior and subsequent rail haul?

Mr. Abeles: Yes, sir.

Mr. Smiley: Under your prior order which restricts [fol. 1914] you to prior or subsequent rail haul, can you take interstate freight from Henderson to any point on that route up to and including Richmond?

A. We could not take interstate freight from Henderson to any point on the route that had not had a prior or subsequent rail haul.

Q. Now, will you tell me what traffic originates at Henderson or what volume of traffic destined to those points in Virginia that you could not now haul under the subsequent or prior rail restrictions?

A. I haven't any data as to tonnage. That would be traffic originating at Henderson destined to these points in Virginia that we could not handle wholly by truck from Henderson to destinations in Virginia.

Q. Any freight you received there from connecting rail carriers you could handle, couldn't you?

A. Yes.

Q. Is Henderson——

A. Yes, still talking about Henderson.

Q. Is Henderson a factory town?

A. Yes, sir.

Q. What type of goods does it produce, textiles?

A. Some.

Q. What other type?

A. Well, I haven't a list of all the industries at Hender- [fol. 1915] son. They have a cotton factory. I believe they have some other types of industries that I am not in position to enumerate.

Q. Very well then. If you use your key point restrictions, as it has been ordered, with the option of using the restriction of subsequent or prior rail service you could serve every point on that route by truck any way you wanted to serve it, couldn't you?

A. Let's see if I understand the question.

Exam. Livingstone: What do you mean by that, Mr. Smiley, the option?

Mr. Smiley: I have examined every route north of the Florida line with the exception of this little space between Henderson and a few points up here at Petersburg. If this carrier had set tight on its subsequent or prior rail service it could do everything it is seeking to do now under the limitation of the key points. I am speaking of every route you show on Exhibit 1 in North Carolina and South Carolina.

Mr. Abeles: This is not the place to argue the case. That is a matter of conclusion.

Mr. Smiley: Will you answer the question.

Mr. Abeles: I would like to have it cleared up. You have not answered the Examiner's question, what you mean by

it. Do you mean if we had the election of observing either the prior or subsequent rail haul restriction or the key [fol. 1916] station restrictions set forth in this, prescribed by the order of January 24, 1941, could we carry any traffic that we wanted to on this route?

Mr. Smiley: Yes, sir, that is my question.

The Witness: Well, under the prior rail haul restriction we could not have handled any traffic from Henderson or any station intermediate to the North Carolina line——

By Mr. Smiley:

Q. Wait a minute. That is intrastate.

A. I said from Henderson or from either of these stations in North Carolina to any station in Virginia. Under the key station restriction we could not handle traffic from Henderson to Petersburg.

Q. Stop right there now, you are getting me confused.

A. I am trying to analyze it so we won't be confused, if I can.

Q. Under the prior or subsequent rail service restriction you could not handle traffic originating at Henderson or any of these points up to Petersburg or Richmond unless you received it from a rail carrier at Henderson, so under that restriction you could not handle freight between those points on that route, is that right?

A. That is not entirely right. It would be right in reference to traffic originating at Henderson up to and including Wise, that we could not handle from stations from Bracey in Virginia to and including Richmond.

[fol. 1917] Q. By the same token, a shipment, an interstate shipment, originating at Bracey or rather at Wise destined to Alberta, you wouldn't be able to handle under the subsequent or prior rail service, would you?

A. That is right.

Q. We are leaving intrastate out of this entirely. Under the key point restrictions if you used that, any type of traffic which originated at Henderson, I mean whether it locally originates there or comes to you from a connecting carrier, can be transported to any point up that route too, but not including, Petersburg—is that right?

A. No, sir.

Q. You could not?

A. No, sir.

Q. You do intend to continue to operate the car from Henderson to Richmond—is that right?

A. That is correct. But let's clear one thing there. You say couldn't. We are not now operating a car from Henderson to Petersburg. You have made that same point two or three times.

Q. I am sorry I mixed it up. Will you tell us if your purpose could be accomplished just as well by having the optional right or the elective right to use a subsequent or prior rail service restriction in connection with your present proposed key point restriction? I mean to say would [fol. 1918] you accomplish the same result that way as you would by your proposed elimination of Petersburg as a key point?

(Discussion outside the record.)

The Witness: Wouldn't that work this way, if we take the key point restriction, or the prior rail haul restriction, you mean with the option to apply either one as we would like—is that what you mean?

Mr. Smiley: Yes, sir, leave your key point restriction the way it is, have the optional right to handle the traffic if it had subsequent or prior rail service, wouldn't you accomplish the same thing as you are seeking now, wouldn't you accomplish the same thing.

The Witness: No, I don't think it would.

By Mr. Smiley:

Q. Explain to us why you could not.

A. Here is one illustration, a shipment originating at Richmond destined to Norlina, Ridgeway or Manson, under the rail haul restriction we would not be able to handle it. And under the key station restriction as now set up we would not be able to handle it through Petersburg.

Q. Now, I understand that you now set your car out at Alberta rather than at Petersburg?

A. That is right.

Q. Now, couldn't you use Alberta as your key point instead of Petersburg and accomplish the result you wish to accomplish?

A. We said that in the testimony. But we also made the [fol. 1919] point that that will involve additional handling, additional transfer, and an operation of a car that would not otherwise be necessary.

Q. Then, let's get it down to this. Is what you want an all-out truck service from Richmond to Henderson?

A. We stated that we would not object to a restriction on the handling of traffic from Richmond to or through Henderson.

Q. What you want is the privilege of giving all-out truck service from Richmond to any point down as far as Henderson on this route?

A. Not to Henderson, but the first station north of Henderson, excluding Petersburg.

Q. And if that traffic originates locally at Richmond it would have to be destined to Wise, Norlina, Ridgeway, Manson or Greystone before the imposition of these two optional restrictions would hurt you?

A. That is right.

Q. How big are those points you have shown there? You show Wise as 1226, Norlina as 794. Are the others almost too small to list the population for.

A. They are not large localities. They are about the size of Norlina, but they receive l. c. l. freight from Richmond that must be back-hauled from Henderson and requires the use of a peddler car that would not otherwise be required.

[fol. 1920] Q. Have you any experience to indicate whether or not it is more economical to run a road haul truck 115 miles from Richmond to Henderson and attempt to make deliveries en route than it is to drop off a car at a point midway and work a truck both directions on that route?

Mr. Abeles: I object, Mr. Examiner. That has nothing to do with the operational feasibility of the key station plan or whether that plan should be modified or restricted. That was all covered in the original hearings on the question of public convenience and necessity.

Mr. Smiley: Mr. Examiner, unless this applicant can show that it has tested the Commission's order and has found that it cannot economically operate that route except as a through route——

Exam. Livingstone: You may answer if you know, Mr. Arnold.

The Witness: I have not the figures to explain it. In other words, I have no figures where I could give you a comparison of the cost of the operation of this truck with

the cost of handling these various cars and delaying the local trains in setting off and picking up l. c. l. freight.

By Mr. Smiley:

Q. You presently operate a turck, as I understand it, from Petersburg as far south as Bracey?

A. That is right.

Q. Can you give us a reason why you don't operate that [fol. 1921] truck on down into Carolina?

A. I think that has been stated that we have simply held it in abeyance pending the outcome of this proceeding.

Q. Would there be any difference in the restrictions that would lie against you if you went on down to Wise, North Carolina? You say you are now operating under the subsequent or prior rail service restriction. If that is the case why can't you go on down to Wise, Manson, Greystone and Henderson?

A. There is no reason that I know of physically why we could not.

Q. There is no legal reason you know of either, is there?

A. None that I know of.

Q. Let's take your route Anderson to Raleigh. That is your Sub No. 2. I understand you were not operating this route?

A. That is correct.

Q. Are the schedules which you have spoken of in your testimony, the schedules which you proposed in the original hearing?

A. I think they are, or are approximately the same.

Q. Can we say they are substantially the same?

A. Substantially the same.

Q. Any freight that originates at and destined to a point in North Carolina, of course, would be intrastate, of course, and we are not concerned with that. I understand you [fol. 1922] now run a package car Raleigh to Henderson and one Henderson to Raleigh—is that right?

A. We run one Raleigh to Henderson, not regularly from Henderson to Raleigh.

Q. Why don't you have a regular car from Henderson to Raleigh?

A. That depends on the loading and the days operation of the local.

Q. Well, you said that Raleigh is an interchange point with other rail carriers?

A. That is correct.

Q. Then the amount of interstate freight and intrastate freight that originates at Henderson destined for Raleigh is not sufficient to run that car regularly—is that correct?

A. How was that?

Q. The interstate freight originating at Henderson and the intrastate freight destined to Raleigh are not great enough to warrant loading a regular package car?

A. That is correct.

Q. Now, are you familiar with the method of operation proposed to operate—proposed by the Seaboard when it asked the Commission to grant the authority over this route in Sub 2, can you tell us how you propose to operate that route?

A. Well, I think the proposal to operate that route is the same we are talking about now.

[fol. 1923] Q. Were you going to have a setout at Henderson, one at Raleigh, then the truck make the distribution up and down the highway?

A. From points beyond those points from Richmond to Henderson from Portsmouth to Henderson, Hamlet to Raleigh, possibly also from Richmond and Portsmouth to Raleigh?

Q. Let's get back to my question. You were going to have a method of assimilating the freight at Raleigh and Henderson from various points?

A. Assimilating the freight at Raleigh and Henderson from various points beyond those points then distributing it up and down the highway by truck, yes, distributing and picking up.

(A short recess was taken.)

By Mr. Smiley:

Q. Will you point out to me, Mr. Arnold, what traffic you would not be able to handle on this route between Raleigh and Henderson if you had the optional right of using the subsequent or prior rail haul restriction?

A. If a shipment originated at Bracey or LaCrosse, say, destined to Raleigh, we could not handle it under the prior rail haul restriction. Nor could we handle it through Henderson with the key station restriction as now specified.

Q. In your testimony, though, concerning Sub 7 which is the Richmond-Henderson route, you propose to retain Henderson as a key point?

[fol. 1924] A. With respect to traffic from Richmond.

Q. Then, do we understand that you do not intend that the Commission retain Henderson as a key point except as to traffic originating at Richmond?

A. Or originating at Henderson destined to Richmond or beyond.

Q. But as to traffic moving south of Henderson to any point on these routes, we are to interpret your testimony, then, as meaning you want all those key points eliminated—is that right?

A. No, we were talking about—we haven't got south of Henderson yet.

Q. Yes, we are, we are on the Henderson-Raleigh route now.

A. Any traffic originating south of Henderson going this way is affected by something else. What he is talking about now, we are going to originate traffic at Henderson or take it to any point south on these routes. I said that is not the intention.

Q. If you had the optional right to use the prior or subsequent rail service restriction you would not be able to take a shipment originating at LaCrosse or Bracey destined for a point beyond Henderson?

A. No, I said to Raleigh.

Q. That would be a point beyond Henderson, would it not?

A. That is one point beyond Henderson.

[fol. 1925] Q. Under the subsequent or prior rail service restriction?

A. I said if it was destined to Raleigh. Now, I will explain that. We asked that we be allowed to move traffic from or through Henderson to Raleigh by truck for the purpose of eliminating some package and peddler cars, and if Henderson is retained as a key point with reference to Raleigh, why, then we would have a peddler car in there somewhere to handle the shipment that might originate at LaCrosse or Bracey destined to Raleigh.

Q. Then the purpose of your testimony is to eliminate Henderson and Raleigh entirely as key points?

A. With respect one with the other, eliminate them as to key points with respect to each other. Henderson is a key

point for any traffic, for any traffic originating south of Henderson destined to Richmond or beyond.

Q. Let's see. Under your key point restriction, you would be able to take a shipment from LaCrosse or Bracey destined to Washington or east, wouldn't you?

A. We would.

Q. Then, you desire the elimination of Henderson as a key point so that you can give an all-out truck service from Richmond clear down to, but not including, Raleigh and are willing to be restricted as to traffic moving to Henderson proper?

A. No.

[fol. 1926] Q. No?

A. We specifically said from Richmond to or through Henderson. In other words, we would not handle traffic from Richmond to any point south of Henderson hauling by truck under this restriction.

Q. That traffic would have a prior or subsequent haul on your train going toward Henderson?

A. Not necessarily. You are talking about the key station restriction. You are not talking about the rail haul restriction. You asked if I wanted to operate an all-out truck service from Richmond all the way south of Henderson?

Q. Yes. What did you answer?

A. I said no, that under the restriction as proposed that we would not handle from Richmond through Henderson. In other words, it would have to move by a package car from Richmond to Henderson.

Q. Very well, that traffic going to Henderson locally or beyond Henderson would have received a prior rail service in your own package car?

A. Yes, under that, going back to the rail haul restriction from Richmond to Henderson, yes.

Q. I am not asking about the rail haul restriction. I am trying to find out how you are going to handle that freight to points south of Henderson.

A. It has been clearly stated all the way through the case [fol. 1927] as far as I know.

Q. How, then, traffic originating at Raleigh either by interchange with other rail carriers—strike that. Interstate traffic received at Raleigh destined to a point in North Carolina would be handled how, under your proposed restriction?

A. From Raleigh destined to where?

Q. Any of these points up those routes up as far as Wise.

A. In that direction, from Raleigh to Wise, we would handle by truck.

Q. That traffic, if it is interstate, when it originates at Raleigh you must have received by or from another rail carrier?

A. Well, it could have been received from my own line from somewhere in South Carolina.

Q. That would still have the prior rail service, wouldn't it?

A. That is right.

Q. Now, then, traffic originating south of Raleigh to and including Hamlet, that is interstate traffic, would have to originate either on your own rail line and receive rail service or be received from other rail carriers, wouldn't it?

A. You didn't finish up here with this Raleigh to——

Q. I will get back to that, if you will allow me to ask the question.

[fol. 1928] Mr. Abeles: Had you finished the answer?

The Witness: I was anticipating another question. I was going to explain something.

Mr. Smiley: I will get back to it.

(Question read by the Reporter.)

The Witness: From stations south of Raleigh moving——

Mr. Smiley: North.

The Witness: North—not necessarily.

By Mr. Smiley:

Q. In what instance would it not receive prior rail service?

A. If we had a shipment originating, say, at New Hill, destined to LaCrosse, Virginia, it would not have received prior rail haul.

Q. Where is New Hill?

A. — Just south of Apex or, say, Cary, the first station south of Raleigh.

Q. Under your proposed restriction, I believe you stated you were willing to have a restriction against handling shipments from Hamlet to or through Raleigh?

A. That is right.

Q. Now, when you say through Raleigh you mean to points beyond Raleigh—is that correct?

A. From Hamlet.

Q. Do you mean shipments that arrive by rail at Hamlet, or having local origin at Hamlet?

[fol. 1929] A. It doesn't make any difference if you restrict it.

Q. Then, you include both types of shipments?

A. All freight originating in Hamlet, or points southwest or east destined to Raleigh or beyond would be restricted by truck handling.

Q. All these points that have been set up as key points on this route Raleigh and Hamlet, will you call off those which are interchange points with other railroads?

A. Apex, Sanford, and Aberdeen. At Cameron there is a short line railroad comes in there from Carthage, North Carolina, seven or eight miles over there.

Q. Have you any idea why or what it was you proposed to do with this truck service at Southern Pines that caused the Commission to name it as a key point?

A. No, of my knowledge, I can't answer that. I don't know.

(Discussion outside the record.)

By Mr. Smiley:

Q. Is this route operated?

A. Hamlet to Raleigh?

Q. Hamlet to Raleigh.

A. No, sir.

Q. I believe you stated in your testimony that at the present time you were running package cars from Charlotte to Hamlet, from Raleigh to Apex, Sanford, and Aberdeen, from Hamlet to Aberdeen and Sanford and from Sanford to Raleigh, Hamlet and Pittsboro. Are there any [fol. 1930] other package cars that you run to or from points on that route?

A. Well, we run to points on that route from Richmond and Portsmouth, to Sanford and Aberdeen. This car from Sanford to Pittsboro is not exclusively a Sanford to Pittsboro car. That has freight in it that the local puts off at Colon and Moncure.

Q. This is your case Sub 4 that we are dealing with. Do you recall what proposal as to how you would operate trucks was made to the Commission in that case, how it would be coordinated with your rail service?

A. I would have to be allowed to review the record here in the original case to answer that question.

Q. Is it safe to assume that you explained the thing thoroughly and made as good a case as you could in seeking this truck service on that route?

A. I presume so.

Q. Do you recall whether or not you had any public witnesses in connection with that route?

A. I was not present at that hearing.

Q. You don't know whether or not you had any public witnesses?

A. No.

Mr. Smiley: Would counsel be willing to tell us whether or not there were any public witnesses at that hearing?

Mr. Abeles: Just a moment, if I can. You are speaking [fol. 1931] of Sub No. 4?

Mr. Smiley: Yes, sir.

Mr. Abeles: I haven't the information here now. I can probably find out for you after searching through the transcript. I don't see that any purpose could be served by answering that question.

Mr. Smiley: As a result of hearing on this Sub 4 and listening to your proof, the Commission originally gave you a restriction to subsequent and prior rail service and on appeal then the Commission after re-examining your proof has proposed to put in these key point restrictions—is that a fair statement of the situation?

The Witness: I think so.

By Mr. Smiley:

Q. Now, other than your own statement as a representative of the rail carrier, have you come to this case prepared to show any further public convenience and which would require a complete change of the Commission's former findings?

A. I didn't come to discuss the question of public convenience and necessity because that question wasn't in this notice of hearing.

Q. You didn't bring any other witnesses for the same purpose, either, did you?

Mr. Abeles: You mean from the standpoint of shipper witnesses, Mr. Smiley?

[fol. 1932] Mr. Smiley: Yes, sir.

Mr. Abeles: No, we have not, because we don't regard that as of any consequence in connection with the issue here under consideration. That has all been thrashed out previously.

Mr. Smiley: Then, do we understand, Mr. Abeles, the applicant's position is that the Commission not only made an error in the first instance in finding that your proposal would require subsequent or prior rail service to accomplish coordination, then in the second instance finding that certain key points were necessary to accomplish the coordinated service?

Mr. Abeles: Is that our position?

Mr. Smiley: Yes.

Mr. Abeles: That is not accurately stated. If the Examiner wants me to, I will state our position, but I think it has been fully set forth in our petitions.

Mr. Smiley: And to support your request that these key points be eliminated, you think the original record and the proof offered there will amply support not only the elimination of subsequent and prior rail service, but also these key points?

Mr. Abeles: Not at all. That is what we are here for today, to offer evidence which was lacking in the original [fol. 1933] record which was made before the adoption of the key station plan, and incidentally, before the adoption of the rail haul restriction.

Mr. Smiley: This route was authorized in July, 1931, was it, in that order?

Mr. Abeles: Yes.

Mr. Smiley: Has not been operated today?

Mr. Abeles: That is right.

Mr. Delaney: I can give you the MCC record if you wish it.

Mr. Smiley: No.

By Mr. Smiley:

Q. If you institute this truck service without key point restrictions on this route, Sub 4, between Hamlet and Raleigh, will it in any way reduce the amount of switching service that you now do for the towns and industries located in that route?

A. It has nothing to do with the switching service except with respect to the package and peddler cars.

Q. Taking that route alone, Raleigh and Hamlet, will Raleigh remain as a key point with reference to that route for any other route under your proposal?

A. That proposal was from or through Hamlet to or through Raleigh to or through Hamlet.

Q. Then a shipment originating at LaCrosse, Virginia [fol. 1934] could not be handled under your proposal to a point beyond Raleigh by reason of being through Raleigh—is that correct?

A. No, it would not be handled to any point beyond Hamlet. It would be handled from LaCrosse, could be handled from LaCrosse to a point south of Raleigh.

Q. How far south?

A. Well, to the first station north of Hamlet.

Q. Then taking these first three routes——

A. You didn't let me finish there.

Q. Sorry.

A. I have explained before, the elimination of Henderson and Raleigh with respect to key points, so far as they refer to each other, was to enable the elimination of the package and peddler cars now operating between those points. Now, if we had a shipment originating at LaCrosse destined to any point south of Raleigh and could not handle it through short of Hamlet, why, somewhere in there we would have to put on a car to handle it.

Q. Then, taking these first three routes together, from Richmond down as far as Hamlet, under your proposal, you would be granted an all-out truck service between those points?

A. Only for the local shipments in there, but not for the traffic from beyond Richmond or from beyond Hamlet?

Mr. Abeles: Might I interrupt and ask Mr. Smiley what [fol. 1935] he means by an all-out truck operation?

Mr. Smiley: Yes, I will be glad to define it. I mean when the railroad takes its truck service, takes any shipment it wants to take, hauls it from its origin to destination by truck.

Mr. Abeles: You mean a movement entirely by truck without reference to a prior or subsequent haul?

Mr. Smiley: That is right, without reference to the billing whether it be truck billing or freight billing.

(Discussion outside the record.)

By Mr. Smiley:

Q. Let's take your Sub 3, which is the route from Hamlet to Columbia, and will you point out there what traffic you would not be able to handle if you had the optional subsequent or prior rail service restriction?

A. Well, under the prior or subsequent rail haul provision we would not be able to handle a shipment from Hamlet to Kollocks, which is the first station across the South Carolina line.

Q. But under the key point restriction you would be able to handle it, wouldn't you?

A. Not from Hamlet to Kollocks, but to Patrick, which is the first station south of Cheraw, we would not be able to handle it under this key station restriction.

Q. Patrick is a town of 270. I believe you said Hamlet was not a large town, it was primarily a transfer point [fol. 1936] for your railroad. Just what traffic does Hamlet originate and about how much that would be destined for Patrick, I mean local traffic, made and shipped right out of Hamlet proper?

A. It would be small in quantity.

Q. I believe you state that this route, Sub 3, and your route Sub 1, which is the operation from McBee down to Sumter are now operated—is that correct?

A. They are both in operation.

Q. And are they operated under any restrictions at the present time?

A. They are operated under the prior rail haul restrictions.

Q. Has the operation been profitable?

Mr. Abeles: I object to that question.

Exam. Livingstone: Sustained.

Mr. Smiley: What is the purpose of trying to remove a restriction if the railroad can operate profitably under it?

Mr. Abeles: I think the answer to that question is obvious. We are trying to improve the service on less carload business and the mere fact that we can give an inferior service at a profit certainly has no evidentiary bearing on whether we should be permitted to improve the service.

Mr. Smiley: You didn't come in here and testify you had an inferior service.

Exam. Livingstone: Proceed.

[fol. 1937] Mr. Smiley: Note our exception to the Examiner's ruling, as I understand it to be the Examiner's ruling that whether or not any of the operations that are now conducted by the railroad are profitable has no bearing on the matter of adding or removing or modifying the restrictions—is that correct?

Exam. Livingstone: That was the ruling in that instance.

By Mr. Smiley:

Q. There is no physical connection, is there, no physical truck connection or operation, between Columbia and Gaston, South Carolina?

A. That is correct.

Q. Let's take that route which is your original number, as I understand it, from Gaston down to Garnet. In the original case were any of these directional restrictions applied or was a restriction subsequent or prior rail service?

A. The restriction under which that is operating is the prior or subsequent rail haul restriction, if that is what you mean.

Q. I understood your original testimony to be that all of the red points shown on this map were key points with the exception of the point shown in red, Gaston to Garnet, and that they were key points in different directions.

A. No, I think I explained in my testimony that this was not a key point restriction but was a directional restriction only from Gaston or Garnet. It did not affect any [fol. 1938] intermediate point in any other way.

Q. And that restriction arose or arises in this restriction 3 of January 24, 1941—is that right?

A. This restriction shown here, yes. You will have to get the evidence on that to keep that clear. That is not as we explained a key station restriction.

Q. If it isn't a key station restriction, for what reason did the Commission make a restriction to the service of these points you have in red?

A. I have no way of telling you that.

Q. Are they specified as a restriction in restriction 3 of your proposed order?

A. In this proposed order, yes, but not as key stations. I have got that right here in the brief. This restriction

here in the order of January 24 with respect to this route reads: "No shipment shall be transported by applicant as a common carrier by motor vehicle from Gaston, South Carolina—" that is the northernmost terminus, "to Swansea, North, Denmark, Fairfax and Garnet; nor from Garnet to Estille, Fairfax, Denmark, and Gaston."

Q. It is your interpretation that that does not constitute a key point restriction?

A. No, sir, it does not permit the hauling of traffic through these named points. It only refers to the traffic that originate at Gaston or at Garnet.

[fol. 1939] Mr. Abeles: And is consigned to those named points.

The Witness: I would say we could not handle it to one of these points to load in a car to go out even if it is consigned to a point outside of the state.

By Mr. Smiley:

Q. Which of these points, please, name them, starting with Gaston, are interchange points with other rail carriers?

A. Denmark, Fairfax.

Q. Where would Gaston obtain any interstate freight to move to Swansea?

A. It would not.

Q. Where would it obtain any interstate freight to move to North?

A. Well, you have asked the question that was put in the testimony. We had a shipment that we used as an example. That was handled by truck. That originated at Gaston, was destined to Williamsburg, Pennsylvania. That was picked up by the truck at Gaston and carried to North and was loaded in a car that went north from there.

Exam. Livingstone: At this point I believe we will recess for lunch until 1:30, gentlemen. It is now a quarter to twelve.

(At 11:45 hearing adjourned to 1:30 p. m.)

Afternoon Session, 1:30

Exam. Livingstone: You may proceed, Mr. Smiley.

[fol. 1940] By Mr. Smiley:

Q. Let's take your Sub 15 route, which is Monroe-Waxhaw. I believe you stated that you now operate a truck line from Hamlet to Monroe—is that correct?

A. It is Hamlet to Monroe and Monroe to Waxhaw, the same truck.

Q. How long has that operation been in existence?

A. Part of it has been in existence for seven or eight years or more. I think it started somewhere about 1932.

Q. Now, what interstate freight that has not received prior rail handling would be received at Monroe destined to Waxhaw?

A. Well, I don't think there would be very much that didn't receive prior rail haul.

Q. Let's go to your Sub 5, which is Hamlet to Wilmington. I understand that you now operate regular package cars Hamlet to Wilmington and Wilmington to Hamlet?

A. Hamlet to Wilmington and Wilmington to Hamlet through package cars.

Q. What freight would there be received at Wilmington or received at Hamlet destined to any point in between Hamlet and Wilmington that would not have received prior rail service—interstate freight, of course, I am speaking of.

A. Well, the shipments that may have originated locally on the routes between Columbia and Sumter and Hamlet.

Q. They would have had prior rail service, would they?

[fol. 1941] A. No. Shipments originating at Columbia or a point between Columbia and Hamlet which would have moved by truck to Hamlet.

Q. Those would be the type of shipments, then, that would not have received prior rail service when destined to a point between Hamlet and Wilmington?

A. That is correct.

Q. At Wilmington an interchange point, you would say, for other rail carriers?

A. Wilmington?

Q. Yes.

A. Yes, sir.

Q. It is also an interchange point for water-borne traffic?

A. At the present time I don't think there is very much water-borne traffic coming in there of the l.c.l. classification.

Q. The package cars you now run from Hamlet to Laurinburg, Lumberton, Bladenboro and Wilmington provide a satisfactory service? I believe that is your testimony?

A. So far as those individual points are concerned. For that traffic that originates at Hamlet or—I mean accumlates at Hamlet, prior to the departure of the train at 10:45, I believe it is—no, it is 11:15 p.m. but for that traffic that comes over in the package cars from Charlotte that does not get into Hamlet until 2:40 a.m., the train service is no way to [fol. 1942] get them out of Hamlet without a 24-hour layover.

Q. That traffic which you have just described has received its prior rail service?

A. Interstate traffic would have received prior rail haul, so far as I can see. What I mean by that, interstate traffic with the exception of that from the Columbia-Sumter line.

Q. Would that freight from the Columbia-Sumter line arrive after the departure of this train from Hamlet to Wilmington under the proposed schedule you have described?

(Discussion outside the record.)

The Witness: Yes, it would get in there after the train is due to leave.

By Mr. Smiley:

Q. What time does that truck which starts at Columbia arrive at Hamlet?

A. 11:20 p.m.

Q. Is there an early truck out of Columbia? Do you have more than one schedule set up?

A. Only one schedule there.

Q. What time does it leave Columbia?

A. 7 p.m.

Q. How do you now deliver by truck for morning delivery from Columbia to points along that route?

A. By truck, you say?

Q. Yes.

[fol. 1943] A. The truck leaving Columbia at 7 p.m. delivers the freight up to Hamlet at 11:20 p.m. It covers all of that route during the early evening.

Q. There is no freight, then, accumulated at Columbia for points north of Columbia on that route, which must be dispatched early in the morning?

A. Dispatched from where?

Q. From Columbia.

A. In the early morning?

Q. Yes, sir.

A. No, sir.

Q. Now, do you make your deliveries, then, from the road haul truck at these points between Columbia and Hamlet?

A. We make deliveries to the stations.

Q. Is there any reason why that truck cannot leave Columbia early enough to arrive in Hamlet before the departure of that train for Wilmington?

A. Well, if it left any earlier it would not get all of the freight at Columbia. It would have to get into Hamlet in time to get the shipments into those package cars.

Q. How much freight would you say originates at Blaney, a town of 146 people, for any point on the Hamlet-Wilmington line?

A. I doubt if there would be very much.

Q. How about Lugoff, population 202?

[fol. 1944] A. Well, the interchange from this route to the Wilmington route, the Columbia route to the Wilmington route as between each individual station to the other individual stations would always be small, but if we are going to pick it up and put it off, we are going to have to run a car when the truck can pick it up and take it on over without the cars.

Q. If you got it into Hamlet in time, you intend to put that freight into the Laurinburg-Lumberton and Bladenboro and Wilmington cars, do you not?

A. If they would run and the shipments arrived in Hamlet in sufficient time to make the transfer to the cars before the cars had to be closed and switched to the yard.

Q. Those cars which we have mentioned are the ones which you have testified now performed a satisfactory service from Hamlet?

A. For certain traffic.

Q. Now, let's take your Sub No. 6, which is Monroe to Rutherfordton. What interstate traffic is there accumulated at either Monroe or any other point west of there on this route that has not received prior rail service?

A. Well, I don't think there would be any.

Q. Now, let's take a look at the Sub 8, which is your route between Great Falls and Greenwood. Is there any authority granted or being used to connect between Waxhaw [fol. 1945] and Great Falls or Waxhaw and Chester?

A. No, sir.

Q. What interstate freight would there be offered at any point on this Sub 8 route destined for any other point on that route which would not have received prior rail service?

A. None whatever.

Q. And if there is any freight originating on that route destined to any other point on these truck routes from South Carolina, North Carolina and Virginia, it would be necessary for you to handle it in rail service at least from Chester or Great Falls to Monroe—is that a correct statement?

A. Now, you said, as I recall, a shipment originating on the Greenwood-Great Falls route destined to any other of our routes would of necessity receive rail haul?

Q. Yes.

A. From this route to the other?

Q. Yes.

A. Yes, sir, it would.

Q. Are you familiar with restriction 1 of your proposed order?

Mr. Abeles: You are speaking of the order of January 24, 1941?

Mr. Smiley: Yes, sir.

By Mr. Smiley:

Q. Do you have that restriction in front of you now?

A. Yes.

[fol. 1946] Q. Do you have under 1 a restriction that provides that any service performed must be coordinated with and auxiliary or supplemental to the Seaboard Air Line Railway?

A. Yes, supplemental to the service of the Seaboard Air Line Railway.

Q. Will you pick out for me, please, in this group of Virginia towns shown on your Sub 7 routes, one south of Petersburg or other than a key point that you would consider to be a typical town. I think you mentioned LaCrosse while ago as being a town of which you had a shipment to some other point that the subsequent or prior rail restriction alternating with the key point restriction would still leave you in position of not being able to handle the freight by truck?

A. You might pick out either one of those as typical in that respect. I don't know just what you mean.

Q. I mean typical of your outbound traffic from those points.

A. It would be just as well to pick either McKenney, Alberta or LaCrosse, either one.

Q. Let's take the LaCrosse and assume you have an interstate shipment there destined to a point on Route Sub 2 intermediate to Henderson and Raleigh and tell us how you would handle that shipment under your proposed restrictions?

Mr. Abeles: When you say proposed restrictions,—the restrictions as we propose them or as they are set forth in [fol. 1947] the order of January 24?

Mr. Smiley: As you propose to change them.

The Witness: From LaCrosse to a station between Henderson and Raleigh?

Mr. Smiley: Yes, sir.

The Witness: We propose to handle that with the trucks.

By Mr. Smiley:

Q. Trucks all the way through?

A. Yes, sir, for this reason—it would go into Henderson in the truck sometime in the early afternoon and would move out of Henderson in a truck the following morning, which would save the operation of a peddler car either on one segment or the other, either north of Henderson or south of Henderson.

Q. Under your present key point restriction you are now authorized to move a shipment from LaCrosse to, say, Wake Forest, because in so doing you would only pass through the one key point of Henderson?

A. That is correct.

Q. And likewise you would be able to take a shipment from LaCrosse to Henderson all the way by truck?

A. That is correct, but that could not have been done under the prior rail haul restriction.

Q. Very well. Let's take another shipment originating at LaCrosse and destined to Sanford on your Sub 4 route. That is a point intermediate between Raleigh and Ham- [fol. 1948] let. How will you handle that by truck under your proposed restrictions, or will it be a combined truck and rail movement?

A. Well, it could be either one. That would move from —this is the way it would probably move. It would probably move from LaCrosse to Raleigh.

Q. By truck?

A. By truck and from Raleigh to Hamlet by car and backhaul to—what was the point you mentioned?

Q. Well, Sanford.

A. Sanford, yes.

Q. Under your proposed restriction could it be a transported by all-truck service from LaCrosse to Sanford?

A. It could be, but—wait a minute now. Let me figure this out here, how it would move. Well, there wouldn't be much difference in the time. It could move either way from LaCrosse to Sanford, by truck or by being transferred to a car somewhere then distributed by truck.

Q. Under your proposed restrictions, then, that you are suggesting to the Commission a movement from LaCrosse it could move to Sanford by all-truck service?

A. It could.

Q. Let's take a shipment moving from Lacrosse to, let's say Butters, on the route from Hamlet to Wilmington. That is your Sub 5 route. Could that move all the way by truck under your proposed restrictions?

[fol. 1949] A. No, sir.

Q. What would prevent it moving by truck all the way through?

A. The restriction against moving traffic from or through Raleigh to or through Hamlet.

Q. Your proposed restrictions in its essential characteristic combines Raleigh and Hamlet into one key point as to traffic moving beyond Hamlet—is that the way you interpret it?

A. Moving from Raleigh to or through Hamlet. The restriction would apply against any traffic moving from points north of Raleigh or Raleigh itself, through Raleigh to Hamlet for any point beyond Hamlet.

Q. Now, will you tell us in what manner a shipment moving from Lacrosse to any point down to but not including Hamlet on your Sub 2 routes would be corrdinated with your rail service as required by restriction 1?

Mr. Abeles: Object, Mr. Examiner. We haven't here before us the question of conditions 1. If he wants to relate

that question to condition 3, explain how it has any relation to condition 3, he may.

Exam. Livingstone: That is true, Mr. Smiley.

Mr. Smiley: We have an applicant here before us that has an order from the Commission which says very distinctly no matter what he does, no matter how he operates, that the service by motor vehicle to be performed by the applicant shall be limited to service which is auxiliary to or [fol. 1950] supplemental of the service of the Seaboard Air Line Railway. That would certainly be a proper question as it affects condition 1.

Exam. Livingstone: This wouldn't be the proper place, as I see it.

Mr. Smiley: If that is the manner in which the Commission intends to enforce its order here, this whole order could be pot-smutted; taking the various four restrictions, taking them one item at a time, we truckers had just as well get out of the picture.

Exam. Livingstone: As I see it, we are only involved with condition 3.

Mr. Smiley: Does it make any difference to the Commission by changing condition 3 you make it impossible to conform to any of the other restrictions?

Mr. Abeles: I don't know whether the Examiner wishes to hear from me on that question or not, but I think if I understand Mr. Smiley correctly, he is maintaining that the proposal that we now make for modification of condition 3 may affect our compliance with condition 1. Is that what you have in mind?

Mr. Smiley: That is correct.

Mr. Abeles: I think the answer to that contention is clearly this, that condition 1 simply provides that we shall [fol. 1951] operate our trucks in auxiliary or supplemental service and in authorizing us to operate the truck service in lieu of rail service in the manner in which we have shown the Commission we will operate there is a finding that that type of service is supplemental or auxiliary and that that question has been decided and is beyond the purview of this case. Now, we have before us simply the question of whether or not the service within the confines of the limits of these routes shall be operated with one kind of restriction or with another kind of restriction, not whether the type of restriction will affect the auxiliary or supplemental character of the service.

Mr. Smiley: Do I understand that counsel for the applicant is contending that there is no relationship whatever between the restrictions established by restriction 3 in the proposed order and the requirement of restriction 1, that the service performed as a motor carrier must be auxiliary to and supplemental of the rail service?

Mr. Abeles: No, I don't go that far. I agree with you that condition 3 in a sense is a means implementing condition 1. But I do not agree that any proposal that we have made here converts the service from the auxiliary or the supplemental type to any other type. Just what Mr. Smiley has in mind, I don't know, but what we are proposing to do here, namely the use of truck service for the transportation [fol. 1952] and distribution of less than carload freight, is auxiliary and supplemental to rail service, that the Commission has so found in its report and order granting the authority here and that what we are here to consider is simply whether or not certain other conditions shall apply, namely, the key station restrictions set forth in the order of September 24, 1941, or some other key station restrictions or some other form of restriction.

Mr. Smiley: Do I understand counsel for applicant takes the position that a change in the presently prescribed key points of restriction 3, which he states provides a means of implementing the restriction set out in restriction 1, would not by making such a change in any manner put restriction 3 in such condition that restriction 1 could not be implemented?

Mr. Abeles: If I understand your question rightly, I take the position that we would still have a supplemental or auxiliary service here, if all restrictions were wiped out.

Mr. Beall: Has the Examiner ruled on that matter?

Examiner Livingstone: Yes, I ruled against Mr. Smiley on that.

Mr. Beall: May I be recorded as asking for exception, as a matter of form?

Exam. Livingstone: Yes, sir.

Mr. Inglis: Let me say a word here. If I may, Mr. [fol. 1953] Examiner. The petition for modification here was received by the Interstate Commerce Commission, because it was filed pursuant to an order of January 24, 1941. That order laid down the broad general lines under which

the Seaboard could operate trucks at all, and stated, among other things, that in the circumstance there is no need of substituting truck service, and that public convenience and necessity do not require the establishment between such points, of truck service under railroad control. It allowed the railroad to demonstrate, if they could demonstrate, a key station system which would operate within the ruling laid down in January 24, 1941. That is a service which is auxiliary and supplemental to rail, not a truck service. A truck service has been ruled out. Mr. Smiley's question inquired as to the extent and degree that the new truck service would be auxiliary and supplemental to the rail service, and it is as proper a question as could possibly have been asked, with the possible exception of allowing Mr. Arnold some latitude in stating his opinion on an argumentative question; but it goes to the very root of what this hearing is all about. Because if we did not have that under consideration, the petition upon modification was not allowed even to be filed.

I think the Examiner has missed the boat, we will say. [fol. 1954] Exam. Livingstone: The purpose is to confine the hearing as much as possible to the hearing notice which specifically states solely to determine whether condition 3 as set forth in the report should be modified.

Mr. Smiley: All right, Mr. Examiner, should be modified—isn't the proposition that destroys a part of the other orders reason for not modifying it?

Mr. Inglis: That modification, if any, must follow the other order, which has already ruled on the question of full truck service and if the attempt at modification adhering closer to truck service, they then depart from the limitations of the prior order. You have to consider the questions of whether the service is auxiliary or supplemental.

Mr. Smiley: Under the proposed modifications?

Mr. Inglis: I don't think we are limited to the modification as proposed. I think, since they opened up the question of key stations, I think we can put in somewhere the railroad failed to put them before, or suggest some, and I, of course, urge the position that key stations should be put at about a half dozen towns on the Florida routes.

Exam. Livingstone: My position is the same. I don't care to go into condition 1.

Mr. Smiley: Exception to the ruling.

Mr. Abeles: I think on reading the report and order of January 24, fully supports the position that I have taken [fol. 1955] here. I won't go into it further.

By Mr. Smiley:

Q. Mr. Arnold, take a shipment beginning at LaCrosse, Virginia, and moving to a point on your Sub 6 route, the route between Rutherfordton and Monroe. How would that be handled under your proposed modification?

A. It could not be handled any farther than Raleigh under the proposed restriction, by truck. That is, prior to arriving at Monroe. After arriving at Monroe or Charlotte it could again be handled by truck.

Q. Between Raleigh and Monroe or Charlotte, it would of necessity move by rail, is that correct?

A. That is correct, or Monroe, Charlotte or Monroe.

Q. Are there any intermediate points between Hamlet and Monroe served by your truck line on that route?

A. All intermediate towns are served by that truck.

Q. What towns are those? They don't show on your map.

A. Isn't one shown on there? That was a separate hearing on that.

Mr. Abeles: You are asking this in connection with possible movement of traffic on that route and points on the Rutherfordton route?

Mr. Smiley: That or any other route, yes, sir.

Mr. Abeles: It may take Mr. Arnold some time to look up the intermediate stations. We will do it if it is of any importance.

[fol. 1956] Mr. Smiley: I have a highway map here, that will possibly indicate them. You will know whether they are on your railroad or not.

The Witness: Starting at Hamlet and going west, we have Rockingham, Lilesville, Wadesboro, Polkton, Peachland, Marshville, Wingate and Monroe.

By Mr. Smiley:

Q. Now, a shipment moving from Lacrosse to any of those points intermediate to Hamlet and Monroe on that route could only move by truck as far as Raleigh—is that correct?

A. That is correct.

Q. Then it would have to have rail service before it received further truck service?

A. That is right.

Q. Now, a shipment moving from Lacrosse to any point on your Hamlet-Columbia route.

A. Let's shorten that up. It couldn't move anywhere south or east or west of Hamlet. If it was going to any point beyond Hamlet it would have to be stopped at Raleigh, at Raleigh so far as the truck is concerned.

Mr. Abeles: He has stated that so often.

By Mr. Smiley:

Q. Then it would receive rail service?

A. That is correct.

Q. Let's go back in the reverse direction. Let's take a [fol. 1957] point south of Hamlet. Is there any point south of Hamlet on either your lines out to Rutherfordton or out to Wilmington, or down to Columbia and Sumter which could move all-truck to any point north of Raleigh?

A. No, sir.

Q. Could it move to any point between Hamlet and Raleigh, all truck?

A. Yes, sir.

Q. And that is under your proposed restrictions. If we take a typical town between Raleigh and Hamlet, what town would you choose there?

A. It doesn't make any difference——

Q. Would Lemon Springs be all right?

A. No, I would take a little bit better one than that. You can take Sanford or Aberdeen.

Q. Take Sanford. Can a shipment originating at Sanford under your proposed restrictions move to any point beyond Hamlet by all truck service?

A. Yes, sir, and the reason for that is, as I have explained in connection with the other routes, was to eliminate package and peddler cars for the local shipments that might move between these two routes across the state line.

Q. Then, for any point between Raleigh and Hamlet moving in interstate commerce to any point beyond Hamlet, under your proposed restrictions, that movement could be by all truck or truck service substituted for rail service? [fol. 1958] A. Yes, but it would stop at Columbia, be-

cause that is the end of the route, that is as far as you could handle it.

Q. In moving a shipment in that manner by all truck, in what manner would that service be coordinated with or auxiliary or supplemental to the rail service of the Seaboard Railway?

Mr. Abeles: Object to that question.

Exam. Livingstone: You may answer.

Mr. Abeles: That is the same question, Mr. Examiner.

Exam. Livingstone: Yes, I know, but I would like to clear the record on that point.

Mr. Abeles: Repeat the question.

Mr. Smiley: Read the question.

(Question read by the Reporter.)

Mr. Abeles: Before you make your final ruling on my objection to that question I should like to point out in addition to the reasons which I have heretofore stated, counsel is asking the witness a question which is tantamount to a request to define a term in the Commission's order. Now, I submit that the witness is here to testify to the facts. Now, the facts have been given fully and, I think, generously in response to the most detailed questions of Mr. Smiley. Now, whether or not it operates, in accordance with the witness's testimony, constitutes auxiliary [fol. 1959] or supplemental service is purely a conclusion of law, which is the Commission's function to determine. If Mr. Smiley wants to argue on his brief or in oral argument before the Commission that the facts as stated do not constitute a supplemental or auxiliary service, he is of course, free to do so, I submit it is an incompetent question to ask this witness. He is asking for a conclusion, which it is purely and simply.

Exam. Livingstone: I think that is true, Mr. Smiley.

Mr. Smiley: I want to ask the applicant what yardstick or measure do they use in attempting to live up to their order whereby they can advise the operating department that the service that they perform does come within the restrictions of their order.

Mr. Abeles: Now, you are asking me to hypothesize a multitudinous set of circumstances. That is utterly impossible. That is one answer to your question. The other is I submit that to the Commission, and not to you.

Mr. Smiley: Then, we understand that the Seaboard in operating its truck lines has no idea and no way of knowing whether its truck operations are auxiliary and supplemental to the rail service.

Mr. Abeles: Of course, you know that isn't so, Mr. Smiley.

[fol. 1960] Mr. Smiley: If it is not so, then tell us how you determine it is auxiliary and supplementary.

Mr. Abeles: I am not trying to conceal anything, Mr. Smiley. I think we are getting embroiled in an argument here which is more properly one to submit to the Commission rather than on the record here, but if the Examiner desires me to answer the question I can do so very briefly, although I don't think it will satisfy you. My contention is that everything we are doing in the way of handling by truck of less than carload business in the aid of efficient service on that business is auxiliary and supplemental to our rail service and the Commission has so found. Now, whether or not our privilege to handle that business as auxiliary or supplemental shall be subject to restrictions or shall be free of restrictions is a wholly independent question. The auxiliary and supplemental character of the service we are performing with or without restrictions has already been found by the Commission.

Mr. Smiley: To summarize it, I understand your position to be any truck service performed by the Seaboard Railway, regardless of the meaning or manner used is per se auxiliary and supplemental?

Mr. Abeles: I didn't say that. I don't contend that. I say what we are doing here is and has been found to be [fol. 1961] auxiliary and supplemental.

Mr. Smiley: I understand the Examiner has ruled he need not answer the question as to how this is auxiliary?

Exam. Livingstone: Yes, I will stand on that ruling.

By Mr. Smiley:

Q. As to this all-truck service from Lacrosse to certain points south and from points south of Hamlet to a point north of Hamlet, or beyond Hamlet, will you tell me how that all-truck service differs in any respect from the all-truck service of any highway common carrier that you may have?

Mr. Abeles: I object. It is asking the question in a different form.

Exam. Livingstone: Read the question.

(Question read by the Reporter.)

Exam. Livingstone: I don't understand the question.

Mr. Smiley: I will reframe it, then, so we can all get clear on it.

Exam. Livingstone: All right, sir.

By Mr. Smiley:

Q. As to shipments from Lacrosse to points up to Hamlet or the shipments from Lugoff to points beyond Hamlet, which you have stated under proposed restrictions can be handled by all truck service, will you tell me how that all truck service would differ in any respect from the all truck service of any other common carrier by motor vehicle?

[fol. 1962] Exam. Livingstone: You may answer that question?

The Witness: Well, from a practical standpoint, it would differ in that it was handled under a railroad bill of lading and railroad rates.

By Mr. Smiley:

Q. That is as to billing or rates. Now, as to the physical operation and handling of the shipment and the means of transportation, what difference would there be?

A. The difference would be that it would be received by a railroad agent and a railroad depot and moved from a railroad depot to a railroad depot and the delivery handled by a railroad agent.

Q. What mechanism would it move in?

A. It would move, if it moved all the way through in the truck, it would move in a truck.

Q. Is there any difference in that truck than what your truck competitors use as a truck?

Mr. Abeles: To shorten this, if you would like an agreement on our part, the physical movement of a shipment on our trucks and a truck of what we will call an independent motor carrier is the same, I will agree to that. I think it is so self-evident.

Mr. Smiley: Thank you. Up to now it hasn't been evident.

Mr. Abeles: I know that doesn't amount to a concession [fol. 1963] that that constitutes the not-auxiliary or supplemental service. You understand that?

By Mr. Smiley:

Q. Will you tell us what key point you propose to retain on these routes in South Carolina, North Carolina and Virginia, between which or through which you may not transport traffic, through more than one of which you may not transport traffic?

Mr. Abeles: Read the question.

(Question read by the Reporter.)

Mr. Abeles: Mr. Examiner, that has been testified to specifically already in the closing part of Mr. Arnold's testimony. If there is any real purpose that Mr. Smiley has in asking him to repeat it, I have no objection. I just want to call attention to the fact that it will be absolutely repetitious.

Mr. Smiley: Well, then, if counsel thinks that is too much trouble to reiterate those again, we understand that the witness has testified in the record previously as to the key points which the applicant proposes to retain under its proposed modification.

Mr. Abeles: That is correct. Specifically.

Exam. Livingstone: It is the same as in the petition?

Mr. Abeles: It differs slightly.

Exam. Livingstone: In what respect?

Mr. Abeles: We have accepted, I believe, restrictions [fol. 1964] in addition to those set forth in our petition and the Jacksonville-Live Oak line. We have not asked for the removal of any restrictions which in our petition we stated were unobjectionalbe.

Exam. Livingstone: All right, sir.

By Mr. Smiley:

Q. Mr. Arnold, as I understand this matter, approximately four years ago you came to this Commission and attempted and apparently did prove some sort of public convenience and necessity for the establishment of these

various truck routes, in July of 1931 the Commission passed on that proof. Am I right so far?

A. I think so.

Q. Now, some of the routes you have operated. Now, as to these routes which two years ago the Commission by its order indicated were necessary for the public convenience and necessity, which you have not operated, will you tell me what the poor public has done in the meanwhile for this truck service?

Mr. Abeles: Just a moment, Mr. Arnold has fully explained why we have held the operation of certain of these routes in abeyance. Again coming back to the purpose of this hearing——

Exam. Livingstone: The answer is that you did not feel it was feasible to operate—is that right?

Mr. Abeles: Exactly.

[fol. 1965] Exam. Livingstone: Proceed.

By Mr. Smiley:

Q. You did not feel it was feasible to operate under the restrictions as established—is that the correct way to put it?

Mr. Abeles: That is right.

Q. If the Commission does not remove these restrictions as proposed here by you, is it your intention, then to abandon those routes?

A. That would be a question to be determined after it was finally determined what restrictions the Commission will impose.

Mr. Smiley: Mr. Examiner, that is all of the cross examination. I want to get to another matter.

(Discussion outside the record.)

Exam. Livingstone. On the record.

Mr. Smiley: Mr. Examiner, at this time I would like to determine whether or not we will be allowed to put on testimony by a witness representing motor carriers in the Mississippi Valley whose testimony will run to and describe the experiences that the independent mobor carriers in that territory have when facing the competition of motor carriers subsidiary to rail carriers operating without re-

strictions. Will the Examiner allow us to put in such testimony?

Mr. Abeles: I object to the acceptance of such evidence, Mr. Examiner, on a number of grounds; principally, how-
[fol. 1966] ever, because I think it is quite obvious that the experiences of operators in the middle west with the competitive effect of motor carrier operations by railroads has no perceptible relevancy to the conditions obtaining in the territory covered by the routes involved in these cases.

Exam. Livingstone: I will rule with Mr. Abeles. However, I will be glad to entertain your testimony if it has any direct connection with the testimony here involved. That is my position.

Mr. Smiley: I would also like to state that our testimony would prove that the competition of the rail operators motor carriers is ruinous in its effect.

We make an offer to prove by competent witness that the effect upon the independent motor carriers of the Mississippi Valley of competition by rail-owned truck lines has been ruinous, particularly where the rail carriers have not been subject to any restrictions in their motor carrier operations, that we have lost and can give figures to show the loss in traffic that the rail carriers themselves in testimony long cases have shown that their all-truck service runs at least 60 per cent or greater, and that only not to exceed 40 per cent of their service is in any wise coordinated with, auxiliary to or supplemental of the rail service.

This witness by the introduction of official government
[fol. 1967] reports will show that the findings of committees of the Senate have revealed that the railroads are not adverse to using any and all methods which they can commend to restrain the competition of the independent motor carriers.

That is our offer of proof.

Exam. Livingstone: All right, sir. Do you care to make a statement, Mr. Abeles?

Mr. Abeles: Nothing I think of. First of all, those are pretty broad and sweeping statements, which, of course, Mr. Smiley was at liberty to make in the form of offers of proof. I think it is perfectly obvious for the reasons I have state- they would not be admissible here. I will also state, regardless of what he thinks he might be able to prove with respect to rail-operated motor carrier serv-

ice in the Middle West, I can show him that I could disprove any such statements in regard to any proposed here.

(Discussion outside the record.)

Mr. Smiley: We move, Mr. Examiner, that on the basis of the showing made by the applicant, the failure to serve the public convenience and necessity on authorized routes, that all routes which have not been operated under the authority granted be revoked.

Our next motion is that the applicant's plea for relief by changing the key points as specified in the proposed order be denied and that in lieu thereof the applicant be put [fol. 1968] under an additional optional restriction that where the traffic has received prior service or will receive subsequent service by rail, that it may handle freight between any points which it cannot handle under the key point restriction.

Exam. Livingstone: Your motion is on the record.

Mr. Abeles: Note my objection to the granting of those motions. That will be recorded as a matter of course?

Exam. Livingstone: Yes. We will take a short recess.

(A short recess was taken.)

Exam. Livingston: All, right, proceed.

By Mr. Mulholland:

Q. Can you give us the distances between the termini and the various routes that are involved in this case?

A. The railroad mileage on the Richmond-Henderson route is 114 miles.

Q. How about between Henderson and Raleigh?

A. The direct railroad mileage is 43, but the truck going by Louisburg makes 62 miles.

Q. Between Raleigh and Hamlet?

A. It is 98 miles by the railroad but when the truck should operate by Pittsboro it would be 132 miles.

Q. Between Wilmington and Hamlet?

A. Wilmington and Hamlet, 110 miles.

Q. Between Monroe and Rutherfordton?

[fol. 1969] A. 105 miles, but on the return trip the truck would loop into Caroleen and he would make 114 miles on that movement.

Q. Between Great Falls and Greenwood?

A. By railroad it is 74 miles from Greenwood to Chester, then there is a highway cutoff from there to Great Falls that I don't have the highway mileage. It is somewhere around possibly 16 or 20 miles. I don't have that.

Q. Does your route serve Catawba?

A. No, sir.

Q. How about the mileage on your Monroe-Waxhaw route?

A. That is 12 miles.

Q. And between Hamlet and Columbia?

A. 106 miles.

Q. Between Gaston and Garnet?

A. It is 86 miles on the railroad and the record is 96 miles. I presume that is the highway mileage.

Q. Fernandina and Jacksonville?

A. I will get that in just a moment. That is one I didn't get. About 34 miles from Jacksonville to Fernandina.

Q. Jacksonville to Live Oak?

A. I have that all the way from Jacksonville to River Junction. I can divide it.

Q. Give me that.

A. It is 85 to Live Oak. From the freight station to [fol. 1970] Live Oak it is about 85 miles.

Q. How about from Live Oak to River Junction? Give me your total.

A. Live Oak to River Junction is 127 miles by railroad, 142 by highway.

Q. It is 142 by highway from Live Oak to River Junction—is that correct?

A. Yes, sir.

Q. How about between Sebring and Tampa?

A. The railroad mileage is 85. I haven't the highway route mileage on that.

Q. Will it be substantially the same?

A. It might be some little difference, but not very many miles difference. It will be approximately the same. Maybe we can get it from Mr. Inglis.

Mr. Inglis: The way it is actually operated, you would have to add about ten or twelve miles because of going up to Winterhaven, but the direct operation over state roads 79 and 8 gives you 104 miles between the two places which, of course, is half the total mileage on the operation.

By Mr. Mulholland:

Q. Do you want to accept that?

A. Yes.

Q. What is the difference by highway between Sebring and Tampa?

A. 104 miles is the information.

[fol. 1971] Q. Why is it that in the selection of your Gaston and Garnet route you did not go into Columbia, if there is any special reason for that.

Mr. Abeles: Unless Mr. Mulholland can show some connection between the answer to that question and the modification of restriction No. 3 before us here, I don't see the connection.

Mr. Mulholland: I will go to something else then.

By Mr. Mulholland:

Q. If you had a shipment from Lacrosse to Sanford you tell us that you would have a rail haul for part of that distance—is that correct?

A. From Lacrosse to Sanford?

Q. That is right.

A. Well, I testified that it could under the proposed restrictions, it would be possible to handle it by truck, but it would probably have a rail haul in the actual movement.

Q. How would you do that?

A. Well, it would probably be loaded on a car at Raleigh to Hamlet and hauled back by truck or it might be possible there would be a car loaded at some other point to Hamlet.

Q. If it was handled entirely by truck, it would mean you would have to change it from one truck to another at Henderson and repeat that process at Raleigh, doesn't it?

A. That is correct.

[fol. 1972] Q. Are those truck schedules synchronized so that could be a through movement in point of time, or would there be layover in Henderson and Raleigh?

A. There would be a layover at Henderson.

Q. Does your Henderson truck——

A. Just a minute, let me figure this out. There would be a layover at Henderson but it would be possible to move it through Raleigh without a layover.

Q. Do you have those schedules handy?

A. Yes, sir.

Q. Let's trace that movement from LaCrosse to Sanford entirely by truck? How would it leave LaCrosse?

A. Approximately 10 a.m.

Q. Arriving at Henderson when?

A. At 12:40 p.m.

Q. Leaving Henderson when?

A. 6 a.m. the next morning.

Q. Arriving in Raleigh what time?

A. 9 a.m.

Q. Leaving Raleigh at what time?

A. 9:30 a.m.

Q. Arriving at Sanford when?

A. At 11:30 a.m. But that, as I said, that shipment would undoubtedly move from Raleigh to Hamlet in the package car and be moved by truck from Hamlet and arrive [fol. 1973] at Sanford at 6:30 a.m. instead of 11:30 a.m.

Q. Would that be true with respect to shipments originating at all points between Henderson and Richmond and destined to Sanford?

A. Well, I think they could make a better movement than that when they get up that far; you would take a shipment to Richmond and load it in a package car for Hamlet, you could get a quicker delivery that way. That is the way it would probably move.

Q. Then, what is your objection to having Raleigh named as a key point for shipments originating off from the Henderson-Raleigh route?

A. Well, that would mean that the shipment would always have to be loaded in a car at Raleigh and hauled to Hamlet. You are talking about between Raleigh and Henderson now?

Q. I said originating off from that route.

A. I don't know. You will have to clear up on that question.

Q. Take the specific question I asked before, from points between Richmond and Henderson, I understood you to say that they would probably all be handled by a setout car to Hamlet—is that right—if they were going to points between Raleigh and Hamlet?

A. By a package car from Richmond to Hamlet.

Q. My question, then, is if you aren't going to use the [fol. 1974] trucks from let's say LaCrosse to points between Raleigh and Hamlet, what is your objection to being restricted from moving over that route by truck?

A. Well, as to that individual situation there, Mr. Mulholland, there wouldn't be any particular objection except that it would require a whole lot of detailed complicated restriction and what we are trying to get out of there is simply to avoid operating these cars that are now operating between Henderson and Raleigh. That would be just a question of working out some more detailed restrictions in view of the local character of the shipments and the undoubtedly small quantities that I don't know just how they would work that out.

Q. But from a practical operating standpoint and from an economic standpoint, a restriction which permitted you to haul by truck from Raleigh to Henderson and serving the intermediate points but not permitting you to operate beyond Raleigh and shipments originating north of Henderson would not bother you—isn't that true?

A. No, it wouldn't bother particularly unless question of space on the truck or some such question as that. That would be—you simply might put it in the form of a nuisance to keep up with.

Q. Or in framing it?

A. Yes, or in framing it.

[fol. 1975] Q. Now, there seems to be an operating difficulty in putting any restriction on between Hamlet and Columbia—is that correct?

A. An operating difficulty?

Q. Yes.

A. Of this key station character here, yes, sir, or of the prior rail haul restriction.

Q. Why is that true between Hamlet and Columbia?

A. Well, I think that has been explained under the key station restriction, it would not be possible to handle shipments through Cheraw to any point south of Cheraw by the truck.

Q. That would not be true, would it, if Columbia was named as a key point and Cheraw was not included?

A. Yes, sir, because that would preclude you from handling the shipments from the package cars to Columbia that do not arrive in Hamlet until after the train has gone. That was also explained in the record.

Q. Could you tell me the points where you expect to transfer traffic from one of your trucks to another, of your own trucks on these routes—that would be true at Henderson,

wouldn't it—a shipment from LaCrosse to Wake Forest?

A. It would be transferred at Henderson.

Q. Probably that would be true, wouldn't it, in a shipment from Wake Forest to Southern Pines if you had transferred it at Raleigh?

[fol. 1976] A. Wake Forest to Southern Pines, yes, sir.

Q. And from Southern Pines to Columbia you would transfer at Hamlet—is that right?

A. That is correct.

Q. And from Lumberton to some point west of Hamlet you would transfer at Hamlet?

A. That is correct, but they are usually transferred now from car to car at the same place.

Q. When you obtained your authority to operate between Jacksonville and Live Oak, was your truck schedule the same as it is now operated?

A. I can't answer that without reviewing some records.

Q. Perhaps I can clear it up this way. Did you ask for authority to operate a truck from Jacksonville to Live Oak and return in the original application?

A. That is another one I can't answer without some refreshing of the record here.

Mr. Mulholland: Perhaps Mr. Abeles could answer that.

Mr. Abeles: I am almost sure we did. I would have to check up, but I am quite sure those schedules on the Jacksonville-River Junction line which we have treated here together were set up in our applications as separate operations between Jacksonville and Live Oak and return, and Live Oak and River Junction and return. That is my recollection.

[fol. 1977] By Mr. Mulholland:

Q. Since that time that schedule has been changed so a truck operates each day in each direction for the total distance—is that correct—from Jacksonville to River Junction?

A. I don't think that is correct, Mr. Mulholland. I am not clear just now as to why those two are separated there.

(Discussion outside the record.)

The Witness: I will tell you how it is operated now. One driver operates from Jacksonville to Live Oak. The drivers swap at Live Oak but the truck—they just swap on the truck, the truck goes through. Coming back the third driver brings

the truck back to Live Oak and it lays over there four or five hours then the man that came out of Jacksonville takes it and goes back to Jacksonville with it. It is a crude arrangement in there on account of the distance and the hours of service that makes that necessary.

Mr. Abeles: One moment, in order that my statement will not be misleading. There is nothing inconsistent or different in the manner in which these are operated now and the way they were set up in the original application. The schedules were set up from Live Oak and River Junction and from Jacksonville to Live Oak and return, and then from Live Oak to River Junction and return, although I am not sure that I believe even then we intended to carry the truck all the way through.

[fol. 1978] Mr. Inglis: Doesn't it appear rather clearly in the testimony at that hearing that that was all set up as a continuous operation for one truck although there are some apparent distinctions or inconsistencies in the two fact that two applications were filed?

Mr. Abeles: I think that is correct, Mr. Inglis.

Mr. Inglis: It has always been rather frankly one operation all the way from Jacksonville to River Junction?

Mr. Abeles: That is correct, I think; to the best of my recollection the reason they were treated as two separate applications to the Interstate Commerce Commission was that they had been in operation, I believe, in intrastate commerce, under two separate authorities and we wanted to presented them to the Commission that way. But I believe it is correct, subject to the witness' correction of this, that they have always been integrated in actual operation.

Mr. Inglis: Isn't it also true that one motor carrier competes from Jacksonville to Live Oak and another motor carrier competes from Live Oak to River Junction?

Mr. Abeles: I don't know about that, but if I did, I would object that question.

By Mr. Mulholland:

Q. Is the same condition true on any other route involved in this case where you are operating the same truck beyond the termini of the designated routes?

[fol. 1979] A. No, sir.

Q. In other words, in this case, with the exception of the Jacksonville-River Junction route no truck goes beyond the termini designated for the route—is that correct?

A. That is true.

Q. Do I understand that you will interchange at Tampa with other truck lines which you have?

A. There may be some.

Q. A shipment from Sebring to Brooksville, you could handle entirely by truck if the Tampa-Sebring route is not restricted, could you?

A. That would hardly be an interstate shipment.

Q. Where would you interchange your interstate shipments from truck to rail, at Tampa?

A. That is right.

Q. Would you pick up any interstate shipments at Sebring?

A. Well, any interstate shipments from Sebring would undoubtedly be handled from Tampa by car, any interstate shipments. It is a long way from Tampa to the first stateline.

Q. Mr. Mulholland: I think that is all I have.

By Mr. Inglis:

Q. On that Tampa-Sebring operation, the restriction, the rough parallel of present conditions, was not imposed by the order of January 24, 1941, was it?

A. I don't believe I followed you all the way through [fol. 1980] there on that.

Q. I will ask it in a simpler way. The order of January 24, 1941, did not involve the Tampa-Sebring operation, did it, sir?

A. No, that wasn't included in that order, I don't believe.

(Discussion outside the record.)

The Witness: It has been testified to here that it did not cover it.

By Mr. Inglis:

Q. The restriction that is the rough parallel to condition 3 of the order of January 24, 1941, is contained in the order of February 17, 1940, isn't it?

A. I don't remember dates, but it is the prior rail haul restriction, if that is what you mean.

Q. According to the report of February 17, 1940, that prior or subsequent rail haul restriction was placed on your Tampa-Sebring interstate operation in order to pro-

tect competing motor carriers in the territory. I believe that appears in the order. That is still correct, isn't it?

Mr. Abeles: I think the order speaks for itself.

The Witness: I will have to read the order.

By Mr. Inglis:

Q. Your petition for modification here refers to staying the effectiveness of the condition 3 stated in the order of January 24, 1941, and also refers to the Tampa-Sebring operation. Is it your construction of the order of February 17, 1940, and the order of January 24, 1941, and [fol. 1981] the petition for modification here, that you are or are not allowed to handle on your Tampa-Sebring operation shipments not having a prior or subsequent rail haul—to ask that another way, do you or do you not handle on your Tampa-Sebring operation shipments that have not had a prior or subsequent rail haul? That is, of course, interstate shipments.

A. We do not.

Q. You do not?

A. No.

Q. Is it your construction of the petition for modification here that you seek the relaxation of the condition 3 contained in the February 17, 1940, order?

A. That, I believe, the removal of the prior rail haul restriction was in another application that hasn't been ruled on, if I am not mistaken.

Mr. Abeles: Would it be satisfactory for me to answer that, because after all, that is a question of construction of the order and petition.

Mr. Inglis: I would like to hear your explanation. I might not accept it.

Mr. Abeles: You stated our position approximately correctly. The existing order with respect to the Tampa-Sebring route contains the prior and subsequent rail haul petition in our petition for modification of the order of Jan- [fol. 1982] uary 24, 1941, we explained why that route was included in the petition, namely, that the order in that case was issued, that the certificate was issued, prior to the order of January 24, 1941, and consequently prior to the time when the Commission adopted the so-called key station plan. That we assumed in view of the fact that that plan had been adopted by the Commission and was presumably to be

made generally applicable to the motor carrier operations by by or for railroads, that the prior or subsequent rail haul restriction which had been attached to the Tampa-Sebring route would be changed to the rail haul restriction and that consequently we were including the Tampa-Sebring route in our petition, with the request that no key stations be designated for that route. Is my explanation clear?

Mr. Inglis: Let me restate what you have just told me so I can be sure I do understand it. You have included the Tampa-Sebring route, which is Sub 9, in your petition for modification?

Mr. Abeles: That is correct.

Mr. Inglis: And asked that condition 3, not clearly specifying which of the two conditions might be intended, be removed, had in addition have stated that since you operated no package cars over the Tampa-Sebring operation, of course, over the Tampa-Sebring operation, there could be no question but that the operation should be [fol. 1983] entirely unrestricted?

Mr. Abeles: That is correct.

By Mr. Inglis:

Q. Let me ask you, Mr. Arnold, if it is your intention by the petition for modification and the evidence which you have brought before the Commission here today to leave the Tampa-Sebring operation entirely unrestricted as to the previous condition 3 and the order of February 17, 1940? Will you answer me on that one, "yes" or "no", please?

A. Yes, sir.

Q. Is it your intention further, by the petition for modification here to leave the Tampa-Sebring operation completely without key stations?

A. Yes, sir.

Q. What protection do you intend to give the Hunt Truck Line and St. John River Line Company, your direct competitors on interstate water-borne freight through the port of Tampa going on this Tampa-Sebring operation? Do you propose any protection for those competitors which were protected by the provisions of the order of February 17, 1940?

A. The fact that I believe that is covered in the application to modify the original rail haul restriction, because of

the fact that it prevented the handling by truck of water-borne traffic.

Q. You have still additional applications to remove, con-
[fol. 1984] dition 3 stated in the order of February 17, 1940, is that true?

A. February 17, 1940——

Q. That was the order which stated that the competing motor carriers were entitled to protection on the Tampa-Sebring operation, therefore you should not be entitled to handle the water-borne freight through the port of Tampa. Do you still have another application other than the one presently being heard which seeks the removal of condition 3 in the order of February 17, 1940?

A. I don't know.

Mr. Abeles: February 17, 1940, being the order granting the Tampa-Sebring certificate.

Mr. Inglis: That is correct. On the conditions that these competing motor carriers would be protected on the water-borne commerce, you do not have another?

Mr. Abeles: No.

By Mr. Inglis:

Q. Do you have another application to remove condition 3 contained in the order of February 17, 1940?

A. Let me get straight on the dates and orders here. Where is the order of February 17, 1940?

Mr. Abeles: Just a moment. I think I can answer, that because I am counsel for it.

(Discussion outside the record.)

By Mr. Inglis:

[fol. 1985] Q. No, is the correct answer, is it not, Mr. Arnold?

A. No.

Q. Do you have any objections to this Commission fixing key stations on your Tampa-Sebring operation at a choice of say two of the following four points, following five points, Lake Wales, Winter Haven, Bartow, Mulberry, or Avon Park in addition to the termini?

A. We would certainly have objections to that.

Q. Do you object, as I understand then your position to be, you object to restrictions on the Tampa-Sebring opera-

tion since you seek the removal of the present condition 3, and do not desire any key stations placed on that route.

A. That is correct. We could not operate through key stations on this route and due to the train service make the delivery of the shipments as proposed to make by the operation of this truck.

Q. The train service is subject to your control isn't it Mr. Arnold. You could change the train service couldn't you?

A. Certainly we could change the train service.

Q. What efforts have you made to adapt your operations to *to* key stations plans in Florida. Have you made any at all to attempt to comply with the key station plan?

A. I don't know exactly what you mean by that.

Q. I mean if you have made any truck schedule adjust-
[fol. 1986] ments, have you made any rail schedule adjustments, have you done away with any agencies or created any agencies, have you done anything about the operation of your trains or your trucks in an effort to give a good faith try to a key station plan. If so, what have you done?

A. We have made no change.

Q. All right sir. On the Jacksonville-River Junction operation at present, you have no key stations on the Jacksonville Live Oak segment do you?

A. No, sir.

Q. And on the Live Oak-River Junction segment your key stations are Monticello, Tallahassee, Quincy, and River Junction at present are they not?

A. That is correct by the proposed.

Q. Those are the key stations contained in the order of January 24, 1941 aren't they?

A. That is correct.

Q. You haven't operated Live Oak-River Junction segment under the provisions of the order of January 24, 1941 have you?

A. We haven't operated either segment under the provisions of January 24, 1941.

Q. Do you construe that the orders in these entire proceedings restrict your freight from Jacksonville to Live Oak, to that freight that has had a prior haul by rail or
[fol. 1987] will have a subsequent haul by rail?

Mr. Abeles: You mean as set forth in orders of January 24, 1941, or as set forth in the effective order referable to that route now?

Mr. Inglis: What I mean by that, if he construes the operation to be at all restricted under, one, a prior or subsequent rail haul restriction, and two, a key station plan.

Mr. Abeles: At the present?

Mr. Inglis: At the present, yes.

The Witness: At present we construe that by being restricted by the prior rail haul provisions.

By Mr. Inglis:

Q. As to the Live Oak-River Junction segment do you likewise construe that to be restricted by the prior rail haul provision?

A. Yes, sir.

Q. You have had a relaxation of that provision though, and a substitution of a key station plan, and you now seek a modification of key station plan set out for that route. That is true, isn't it?

A. I might argue with you on the question of relaxation there. I will say this, that the proposed key station restrictions in place of the prior rail haul restriction has been set up for that segment of the route.

Q. Your proposal for that segment of the route is that you [fol. 1988] should be restricted and not allowed to handle freight from Tallahassee to Quincy and from Tallahassee to River Junction. This is the restriction stated in your petition for modification. What other restrictions do you propose for that 227 mile operation?

A. Do you want me to repeat the restriction that I previously gave?

Q. I think your answer is known. The petition for modification is known.

Mr. Abeles: Let him answer the question if you want it answered although it has been answered at least once or maybe twice before.

Mr. Inglis: I would like to have it one more time. The petition for modification states the very burdensome impediment of not being able to operate those thirty or few more miles leaves the rest of it entirely without restriction.

Mr. Abeles: You are asking what restrictions we are now willing to accept is that correct?

Mr. Inglis: Put it that way or I ask you what modifications you are proposing. I guess my next question is what you are now willing to accept.

The Witness: We stated that restrictions from Jacksonville to River Junction, from Jacksonville to Lake City, Live Oak, Madison, Tallahassee and Quincy, not including freight from Jacksonville destined to any other point on this route.

[fol. 1989] By Mr. Inglis:

Q. I am beginning to see. You propose that you be allowed to handle freight from Jacksonville to what points beyond such towns as Lake City, Live Oak, and so forth.

A. That is correct.

Q. In other words, on a westbound truck operation out of Jacksonville you would have a sort of a hybrid key station arrangement. I don't quite understand, what would you do about the Lake City freight. You wouldn't carry that on the truck would you?

A. No, sir.

Q. You wouldn't carry any freight on the truck for Lake City, Live Oak, Madison, and Monticello, Tallahassee, Quincy, or River Junction.

A. Leave Monticello out of there.

Q. Leave Monticello out of my question too. Madison, Tallahassee, Quincy, River Junction is included in the question.

A. That is right, from Jackson.

Q. Of course, you would carry intra-state freight to all those points.

Mr. Abeles: We will not go into that.

Mr. Inglis: I would like to ask him if he would carry intra-state freight.

Mr. Abeles: I object to that.

Mr. Inglis: We have, I believe, a pretty involved truck [fol. 1990] operation here. We have counted up to 120 something miles there. In the testimony yesterday there was included some 220—this makes 552. 104—that makes 656, about 25 from Tampa north, up around there, which is about 777. There is a little Waldo operation that hasn't come out. I am not sure what that is so we will discount that completely, and some 34 miles to Fernandina. My mental arithmetic is a little bad. It is about 700 miles of truck operation in the State of Florida.

(Discussion outside of the record.)

Mr. Abeles: May we defer argument?

Mr. Inglis: I asked him if he handled on that truck intrastate commerce.

Exam. Livingstone: I will sustain the objection.

Mr. Inglis: You have grandfather rights on truck operations that you described yesterday from Jacksonville to Tampa and from Tampa north through Tarpon Springs, New Port Richey over to Brooksville, back into Tampa, have you?

Mr. Abeles: Just a minute——

Mr. Inglis: If it is necessary to note exception to your ruling there, will you do it?

Exam. Livingstone: Yes.

Mr. Abeles: I object to Mr. Inglis' last question. That doesn't pertain to the issues in this case. I don't recall the witness making any such statement.

[fol. 1991] Exam. Livingstone: What is the purpose of that question?

Mr. Inglis: The purpose is to show the possibilities of establishing, not the possibility of establishment, but the accomplished establishment of substantial operations under the guise of supplemental auxiliary truck service if that is not involved in the case nothing is.

Mr. Abeles: On these routes?

Mr. Inglis: And your other truck operations that are not here in question.

Mr. Abeles: I must insist in not involving truck routes other than those involved in this proceeding.

Exam. Livingstone: Question.

Mr. Inglis: I don't care to go into the details of those operations. I think the fact they exist should not be kept secret.

Exam. Livingstone: I don't know what the authority is under the grandfather application is at this time. It is a matter of record with the Commission, however.

Mr. Inglis: I haven't asked him the details of that authority. I simply asked him if he had those grandfather applications. That is perhaps a partial application of why they are not involved here. In other words, they already have that truck operation unrestricted, it doesn't have to be if this weakly restricted operation ties up with a- unrestricted one, by control, by conditions, there, or any other [fol. 1992] condition to make it supplemental, are likely

to fail, if the examiner in considering this broad picture doesn't want to consider that, you can't possibly have the entire picture before you.

Exam. Livingstone: I don't think it will be necessary to go into the grandfather applications.

Mr. Inglis: Let me ask two or three questions along the same lines. On those, I will assume that your objections are made, Mr. Abeles, and that the Examiner rulings are the same.

(Discussion outside of the record.)

Mr. Inglis: Mr. Arnold, you have connections at Jacksonville with your own truck operation between Jacksonville and Tampa do you not?

Mr. Abeles: Objections. Not because we have anything to conceal. I think we are unduly encumbering the record with irrelevant matters.

Exam. Livingstone: Sustained.

Mr. Inglis: You have connections at Tampa with the Tampa-Sebring operation, between Tampa-Sebring operation and your Tampa, Tarpon Springs, New Port Richey, Brooksville operation haven't you?

Mr. Abeles: Objections.

Exam. Livingstone: Sustained.

Mr. Inglis: You have connections at Waldo between [fol. 1993] your Tampa Jacksonville operation and a sort of local delivery operation in that section haven't you.

Mr. Abeles: Objections.

Exam. Livingstone: Same ruling.

Mr. Mulholland: In order to get the record clear are you talking now about possible intra-state movements or inter-state movements on these routes?

Mr. Inglis: Obviously both are entirely possible.

Mr. Mulholland: The reason I asked that, I would like to join in it and take exceptions to the Examiner's ruling if he is ruling it isn't pertinent in this case to determine whether key points should be on the routes involved in this case, when they connect up with other routes that are handling interstate commerce.

Exam. Livingstone: My position is that the grandfather applications have no place in this hearing. That is my position in the matter. I don't know the extent of the grandfather applications at this time.

Mr. Beall: I would like to join in the exceptions to that ruling if you please Mr. Examiner.

Exam. Livingstone: All right, sir.

Mr. Abeles: Of course, the fact that I have made objections to Mr. Inglis' question accompanied by rather elaborate explanatory statements does not imply my acquiescense in the statements of the fact because they contain many [fol. 1994] inaccuracies as to the status of these operations.

Mr. Inglis: I put in one intentional statement of fact to see if you would let him explain it, but you won't have anything to do with the Waldo operation.

Exam. Livingstone: Proceed.

Mr. Inglis: Mr. Arnold, are you willing that the points of Jacksonville and Tampa, both of which are termini of operations involved in this case, but which connect your Tampa-Sebring operation and your Tampa-River Junction operation be made key stations, or that some restriction equivalent to the key station plan be imposed on the movement of motor borne traffic through those two Cities.

(Discussion outside of the record.)

Mr. Inglis: I am asking if he is willing that they be made key stations.

Mr. Abeles: I object to that question. According to my understanding of the question routes other than those covered in this proceeding——

Mr. Inglis: It doesn't necessarily involve another route to ask if he is willing if the termini of these routes be made key stations.

Exam. Livingstone: Are you taking up this grandfather operation application now between Jacksonville and Tampa?

Mr. Inglis: No. I am asking if he is willing to have [fol. 1995] Tampa which is on the Tampa-Sebring route involved in Sub 19 and Jacksonville which is on the Jacksonville-River Junction route involved in Subs 9 and 10, made key stations?

Exam. Livingstone: You may answer that, Mr. Arnold.

Mr. Abeles: Before he answers that Mr. Examiner, I would like to insist that he define with respect to what routes he is asking the witness as to his willingness to establish them as key stations, because I feel quite sure that the Examiner understands that a key station in and of itself means nothing but it is the designation of two

points on a given route which results in the restriction. Now when Mr. Inglis asked the witness whether he had been willing to have Jacksonville and Tampa named as key routes, the question doesn't mean anything unless he defined with respect to what routes and with respect to what other key stations he is asking the question.

Mr. Inglis: I am unable to agree that the question doesn't mean anything. I think the question means the meat of this case. I think it is entirely proper to ask him if he is willing that these two points be made key stations or the equivalent of key stations.

Mr. Abeles: I object to the question unless it is coupled with a statement by Mr. Inglis with respect to what routes he is referring.

[fol. 1996] Exam. Livingstone: What routes are you referring to?

Mr. Inglis: I refer to all other truck operations of the railroads.

Mr. Abeles: Regardless of whether they are involved.

Mr. Inglis: Whether they are on subs, 9, 10, 18, and 19, or whether they might be involved in some other applications which we can't mention here today.

Mr. Abeles: Then I object to the question. It is obviously too broad unless he is willing to state with respect to which routes.

Exam. Livingstone: Sustained.

Mr. Inglis: Mr. Examiner, the hearing here has been set down to determine what key stations should be imposed.

Exam. Livingstone: Absolutely.

Mr. Inglis: I am asking if he is willing to the two most important towns in Florida being made key stations.

Exam. Livingstone: That is true. I asked you to explain that, but you won't.

Mr. Inglis: You won't let me.

Exam. Livingstone: You are talking about these additional grandfather routes here.

Mr. Inglis: I am not except as they may be involved in the use of Subs 9, 10, and 19. Those other operations must not be involved here, because you have ruled they haven't. [fol. 1997] I am simply asking if you are agreeable to an appropriate restriction such as the naming of the cities of Jacksonville and Tampa the termini of the presently involved operation as key stations.

Exam. Livingstone: On these named routes as between Jacksonville and River Junction or between Jacksonville and Live Oak rather.

Mr. Inglis: Yes, on any freight that might move over those two points.

Exam. Livingstone: I think Mr. Arnold is perfectly capable of answering that question.

(Discussion outside of the record.)

Mr. Abeles: He can answer it but he has answered it at least three times to my knowledge. He has stated——

Exam. Livingstone: In order to expedite the hearing answer the question.

Mr. Inglis: Please answer that question yes or no Mr. Arnold.

Mr. Abeles: No the question can not be answered yes or no.

The Witness: From Jacksonville to Tampa—I am not clear as to whether he is talking about the Jacksonville to River Junction or what.

Mr. Inglis: I am not referring to the Jacksonville Tampa operation, we are pretending there is no such thing. I am [fol. 1998] referring to the use of the Tampa-Sebring route and the Jacksonville-River Junction route and I would like to have you confine your answer to the use of those two route, freight that would move along them and then tell us whether you are willing to the points of Tampa and Jacksonville being named key stations or some appropriate and equivalent restriction be made upon the passage of truck borne freight through those two cities.

The Witness: Well if a restriction could be worked out on that basis I would have no objections to a restriction that would prohibit the movement of inter-state freight from the Jacksonville-River Junction route to any point on the Tampa-Sebring route.

Mr. Abeles: Does that answer the question you had in mind Mr. Inglis?

Mr. Inglis: No. I want to—I don't mean freight that moves over both routes. I mean freight that moves over either route.

The Witness: One would have no relations with the other if it doesn't move over both,

Exam. Livingstone: The question is not clear at all see if you can reframe the question and take up one route at a time.

Mr. Inglis: Are you willing, Mr. Arnold, that Jacksonville be named as a key station in the use of the Jackson-
[fol. 1999] ville-River Junction operation.

The Witness: Why, we have already named Jacksonville as a key station in connection with the Jacksonville-River Junction operation.

By Mr. Inglis:

Q. I don't agree that you have. Are you willing it be named?

A. On the basis which we have put up that we would accept the restriction. On that basis we have testified to.

Q. Are you willing that Tampa be made a key station on freight moving through that point by truck destined to or originating on the Tampa-Sebring operation?

A. You are mixed up on that question. What you asked is if I would have any objection to key stations on the Tampa-Sebring route. We have already covered that.

Q. I am not talking about that. I am talking about truck borne freight moving through Tampa to the Tampa-Sebring route or from points on the Tampa-Sebring route to points beyond Tampa. Are you willing that Tampa be a key station on that type of movement?

Mr. Abeles: Mr. Examiner, I object. That question can not be answered because it doesn't deal with the key stations restrictions intelligibly. I say that with all deference to Mr. Inglis in view of the fact as I have previously stated the naming of a single key station on a route means nothing in the Commission's theory of key station restric-
[fol. 2000] tions because restrictions results only from the imposition of two or more key stations if I make myself clear. And if Tampa was named as the only key station on that route there would be no resulting restrictions.

Mr. Inglis: I have already asked him if he would object to the naming of four other points as key stations.

Mr. Abeles: When you get beyond one you are getting to a different proposition.

Mr. Inglis: I am asking as to Jacksonville and Tampa being key stations to give the Commission some form so

the Commission can make a ruling to keep these—in an effort to give the commission some information that would enable it to enter an order that will keep these truck operations in fact supplemental and auxiliary.

Mr. Abeles: My position is that I have no objections to the Witness answering the question although I don't think it will mean anything if he does.

Exam. Livingstone: You may answer, Mr. Arnold.

Mr. Abeles: If he understands the question.

The Witness: If I understand what he is talking about. We have been discussing the Tampa-Sebring route. He asked about key stations, Tampa and three or four other points whether we would have any objections. I said we would for the reasons that we had already explained that: There would be no way to get freight through the key [fol. 2001] stations. I don't understand what the next question is or what the next application is to Tampa-Sebring route.

Mr. Inglis: You have answered my question some time ago as to Avon Park, Lake Wales, Bartow, and a couple of other points, asking you in addition, if you have any objections to naming Tampa as a key station.

The Witness: If you don't name any other point on the route as a key station, what is it.

Mr. Inglis: I think you ought to name the others too. I am asking your view on it.

The Witness: I have told you we have objections to that.

Mr. Inglis: That would impede the movement of truck borne freight from a point like Brookville to a point like Lake Wales would it?

Mr. Abeles: We are getting off the route.

Mr. Inglis: It would impede truck borne freight from a point like Brookville to a point like Avon Park or Lake Wales won't it.

Mr. Abeles: I have no objections to his answering the question.

Exam. Livingstone: I don't follow you.

Mr. Inglis: The reason you don't follow Mr. Examiner you don't have the facts which I have tried to bring out. You won't allow me. I can't help it. He has a possible [fol. 2002] truck operation from points nearby Tampa, through Tampa, to points on the Tampa-Sebring route.

Mr. Abeles: All of which would be intra-state Commerce.

Exam. Livingstone: All of which is not at issue in this hearing.

Mr. Inglis: It could be intra-state. And it is very much involved in the hearing. Your ruling is otherwise, so we will stick to that.

Exam. Livingstone: Proceed with the questions.

Mr. Inglis: Mr. Arnold do you propose to interchange freight moving along the Jacksonville-River Junction operation or along the Tampa-Sebring operation with truck lines that might reach points not served by either your truck lines or your rail lines.

(Question read by the reporter.)

Mr. Abeles: Speaking of freight moving over those routes by truck?

Mr. Inglis: Yes.

Mr. Abeles: I object to that question.

Mr. Inglis: Why.

Mr. Abeles: I don't see that it has any relevancy to the question of key stations.

Mr. Inglis: I think his method of operation is quite important.

[fol. 2003] Exam. Livingstone: Answer the question.

The Witness: Answer the question?

Exam. Livingstone: Yes. If you can. Do you propose any interchanges with other truck lines?

The Witness: No.

Mr. Inglis: That applies to both the Florida routes, all three of the Florida routes?

The Witness: Yes.

Mr. Inglis: Do you propose to construct your rates on the basis of the rail mileage or the highway mileage which I note from your testimony a moment ago was not always identical.

Mr. Abeles: Objection.

Exam. Livingstone: Sustained.

Mr. Inglis: It is a part of the Seaboard's established practice not to interchange with independent common carrier truck lines except in extreme circumstances isn't it?

Mr. Abeles: Objection.

Exam. Livingstone: You may answer.

The Witness: I think I am going to have to have you repeat that.

Mr. Inglis: Repeat it.

(Question read by the reporter.)

Mr. Abeles: I would like to withdraw my objection to that question.

[fol. 2004] Exam. Livingstone: All right.

The Witness: Question?

Mr. Inglis: I have no further questions.

Exam. Livingstone: Is there any further cross-examination?

Mr. Wiprud: Yes, sir.

By Mr. Wiprud:

Q. Mr. Arnold, will you state, if you know, whether at the hearings on the original applications on these proceedings the railroad, in assuming its burden of proof to show public convenience and necessity, submitted statements or estimates of tonnages to be moved by motor truck as to each of these operations?

A. Estimates of tonnage to be moved by motor trucks, I can't answer. I am not familiar with that.

Q. As far as you know the record contains no such estimate or statements.

A. I have not checked the record for that purpose. I can't answer that from my own knowledge. I don't recall.

Q. Is my understanding correct, you do not intend to submit estimates of tonnages that will move over these various operations in the event the pending application is approved?

A. We have nothing to submit here. We made the point that we would submit anything that the Commission desired and explained to one of the gentlemen just what would be involved in endeavoring to arrive at those figures. Now as I understand what you are asking, if we would have any objections to submitting estimates of tonnage that these [fol. 2005] various trucks would handle.

Q. I am asking you whether you propose to submit any estimates of tonnages in connection with the operations proposed and for which authority is sought in this application.

Exam. Livingstone: The answer is that you do not propose to enter any traffic estimates. Is that right, Mr. Arnold?

The Witness: We do not propose here to submit it.

Mr. Wiprud: In the light of the witness' answer and in the light of the testimony at this hearing and denial by the Examiner of the request of Mr. Beall, I would like to submit the following motion: The Anti-Trust Division of the Department of Justice moves, you, Mr. Examiner, and through you the Interstate Commerce Commission, that applicants be required to furnish the Commission for use in this hearing, the tonnages transported by its motor truck facilities during the year 1940 and for those segments where it is authorized to operate, but does not operate, and to the extent that applicant seeks to remove restrictions in this proceeding to give estimates of tonnages for such proposed new motor carrier operations. Included in this motion is a request that such tonnage figures be divided to show interstate and the intrastate tonnages, and separated as to carload and less than carload freight.

Mr. Examiner, in support of this motion, I respectfully [fol. 2006] submit the following: First, the Commission is a fact finding body and not a judicial tribunal. I might simplify that by stating that Congress could have conducted this hearing through one of its committees, and if it had done so, would have sought all the facts necessary to determine the public interest involved in this proceeding, as contrasted with perhaps the narrow issues that are ordinarily found in a judicial proceeding. That duty it has delegated to the Interstate Commerce Commission. Second, the issue in this proceeding is as to whether the public convenience and necessity will be served by the granting of this application to lift restrictions to enable the applicant to conduct new operations. Three, that cannot be decided by this Commission without information as to the traffic moved, and estimated to be moved by these truck operations. Some guage is necessary to a determination of what is a proper key station and what the effect of the granting of this application would have upon established motor truck independent operations. And, therefore, this question of what tonnage will be affected, what tonnage will be moved, is essential to an ultimate finding in this proceeding. Four, the testimony now in this record goes to the proof of the convenience to the railroad, if the application is approved. In view of the decision there is here also involved not only the question of how the railroad may use these auxiliary

truck operations in connection with their rail service, but [fol. 2007] whether they would unduly restrain competition and finally, I repeat the Commission is a fact finding body. Its orders can only be defended in the Courts, if such orders are based upon findings having a rational basis in the evidence. Without the information required by this motion, there could be, in the view of the Division, no rational basis for a finding of public convenience and necessity.

Exam. Livingstone: My ruling is the same and the basis for the ruling is that I will not require the applicants to expend several hundred dollars possibly to figure up this information.

Mr. Wiprud: May I state that my motion was also directed to the Commission, and I ask that it be submitted to the Commission.

Exam. Livingstone: Yes. It is on the record.

Mr. Abeles: Before there is any further argument on that motion, I want to get clearly a statement as to what was requested. May I ask the reporter to go back and read the first part of Mr. Wiprud's motion.

(Discussion outside the record.)

Mr. Inglis: Now, Mr. Examiner, the truck carriers that I represent here, all common carriers by motor truck operating in Florida, move you and through you the Interstate Commerce Commission, that the applicant be required to show as a part of the record in this hearing its motor truck operations in Florida, in their entirety, in order that [fol. 2008] this Commission, as a fact finding body may see the relation, of any between those operations and the operations directly involved in this hearing.

Exam. Livingstone: The motion is denied.

Mr. Inglis: For my reasons, I give the same as Mr. Wiprud gave for the Anti-trust division.

Exam. Livingstone: The motion is denied.

Mr. Beall: Mr. Examiner, I would like to have the record show that I join with Mr. Wiprud and Mr. Inglis in their motion and request an exception to the Examiner's ruling. In addition I wish to submit certain motions of my own. First, I move the Commission that this hearing be continued to a future time and place to be designated by the Commission but at a date not less than sixty days from the present time for the purpose of giving protestants an opportunity to prepare and produce evidence in support of

the proposition that the certain modifications which the applicant proposes would result in a railroad monopoly of motor transportation. Would result in destructive competitive practices and would be inconsistent with the public interest in support of that motion. I say that the need for such further hearing and evidence arises from the testimony offered by the applicants here and which protestants have had no opportunity to meet. I wish to make an additional motion to move the Commission to hold this hearing [fol. 2009] open for decision on the exceptions taken by protestant to the exclusion of evidence relating to facts having to do with competition between applicant and independent motor carriers and that the Commission rule that evidence bearing on competition should be received and that further hearings be held for the purpose of receiving such evidence. I make a further motion to move the Commission to enter a further order and notice of hearing in these proceedings and to broaden the scope of the hearings to include all matters affecting competition between the railroad motor carrier operation and the independent motor carriers. The reason for that is all evidence bearing on this issue has been excluded from all hearings on these applications and the Commission does not have before it a record upon which necessary statutory findings may be made.

I make the further motion, I move the Commission to enter a further order and notice of hearing and to broaden the scope of the hearing to include inquiry respecting the extent, if any, that the modifications proposed by the applicant are or might be inconsistent with restriction number one. The reason for that is the refusal to permit protestant to develop the point at this hearing.

I make the further motion, I move the Commission to require the applicant to produce for the record a statement [fol. 2010] showing all tonnage handled by the Railway Express Agency at each point covered by the pending application and to show separately the revenues of the Railway Express Agency at these points and the proportion of such revenues which the Railway Express Agencies pay to the Seaboard Air Line for services, that this information be supplied for the period from October 1 to October 31, 1941. The reason for this motion being that the Seaboard Air Lines, or applicant, is one of the owners of the Railway Ex-

press Agency and said Express Agency is one of the means which the railroad has of handling l.c.l. freight in competition with independent motor carriers.

I further move the Commission to take no action with reference to the restrictions modifications sought by the applicant here until after the question of hearing and exclusion of evidence has been disposed of through brief of argument before the full Commission. That concludes the motions, Mr. Examiner.

Mr. Abeles: Does the examiner wish to hear from me on those motions?

Exam. Livingstone: If you care to make a statement, you may.

Mr. Abeles: The motions are so voluminous and cover so much ground that I hardly know where to begin and I am afraid to begin, for I will find it difficult to locate a stopping point. Generally speaking, I think that the answer to [fol. 2011] Mr. Beall's numerous motions have been already covered in the changes that have taken place in the course of the hearing. I would like to point out this in connection with his dilatory motions, namely the request that further hearings be held and that action be withheld on the present petitions until certain, what he terms, preliminary hearings be passed on by the Commission. The original applications in these cases were filed by the applicants here as far back, I believe, as 1936, I think the year is. The applications were pending before the Commission for two or three years and finally resulted in an order authorizing a number of these routes in July 1939, a period of approximately three years between the filing of the original application and disposition by the Commission. As the result of the restrictions imposed in those orders Sub petitions for modification have been filed by the applicant, were filed by the applicants originally I think some time in 1939, and those petitions have taken their course through the Commission resulting approximately two years later—that should have been January 1940, when the petitions for modification was filed, and those petitions have just come to a head with the hearing here, so we have a period of almost five years between the time the original action was taken by the applicants here in the effort to obtain the necessary authority from the Commission and the present time and we are not through yet.

[fol. 2012] Mr. Beall: Is this on the record.

Mr. Abeles: Yes.

Mr. Beall: I wanted to be heard.

Mr. Abeles: I am just pointing that out as a time element for denying the motions for further delay here. I can say many other things.

Exam. Livingstone: I can say in so far as the request for continuance is made, that is denied. To the portions of the motion I am unable to follow at this time. However, they are on the record. You are of course at liberty to petition the Commission for further hearing if you so desire. I have no authority whatsoever to change the place of hearing.

Mr. Beall: May I modify my petition to saying that I not only submit these to you but through you to the Commission so they will go to the Commission.

Exam. Livingstone: Yes. The petition for continuance is denied. We will no doubt have briefs in this case. I don't want to continue argument here.

Mr. Beall: May I be permitted to make a very brief statement; in view of the fact the opposition has their's on the respective motions on the record. I have a few very pertinent words I would like to say.

Exam. Livingstone: Make it brief.

[fol. 2013] Mr. Beall: All right, sir. In respect to these hearings being described having gone on for two or three years, I would like to say in every one of them these petitioners have refused to produce the evidence. All efforts of the protestants to get it in the record have been excluded by the Joint Board. Exceptions were taken and the Commission has never acted on those exceptions.

Exam. Livingstone: I think that would be better to take that matter up on a brief. You are at liberty to discuss any problems which you have on brief.

Mr. Beall: May I finish this part of the statement?

Exam. Livingstone: Yes.

Mr. Beall: It is important for this reason. I appreciate the privilege of filing a brief. Briefs were filed in prior proceedings. The Commission proceeded to dispose of the question without hearing the protestants on the exceptions which they took. If the Commission should by any chance rule that the scope of this hearing is as narrow as the applicants contend, and the Examiner has held, and if they

should by any chance rule that this evidence which we have tried to get in should be excluded, I want the opportunity to test out that question by appropriate proceedings before the Commission can proceed with the rest of it. That is why it is important to separate the procedure from the ultimate facts in this case. I want to preserve my position [fol. 2014] in order to do that.

Mr. Wiprud: May I make a short statement of the position of the Anti-trust division.

Exam. Livingstone: Yes.

Mr. Wiprud: Do I understand first of all I can make this inquiry. Do I understand now that the record is about to be closed at this hearing.

Exam. Livingstone: That is correct.

Mr. Wiprud: I would like to make the motion for the Division that the hearing be continued for a period of thirty days in order to enable the Division to present testimony which is lacking in the record in regard to the effect of the granting of this application upon competition. The Division is in this proceeding, Mr. Examiner, for one reason, that is because of the issue of undue restraint of competition. That is the only issue with which it is concerned. In our view the record is incomplete, which is ordinarily the case in these proceedings in so far as the parties are concerned, whether applicants or interveners. In other proceedings involving this issue in which the Division has intervened, it has presented evidence, the Commission has considered or has it under consideration; therefore, I would like to make a motion for the Division that it be permitted sufficient time within which to study the record in this case and complete the record from the standpoint of public [fol. 2015] interest in the question of competition.

Exam. Livingstone: I will be glad to hear any witness you have right now, as a matter of fact the question of holding the case open, that would be impossible. I will be glad to take any witnesses you may have at this time.

Mr. Wiprud: We haven't means of knowing the extent of the presentation made. Under the ruling of the Examiner, and considering the direct and cross-examination of this witness which I have outlined here, in the light of that, his testimony is valueless because of the narrow issue to which the Examiner has confined this particular proceeding. If I understand the record correctly, Mr. Examiner, in all the

prior proceedings, the hearings were held on these individual applications, and the hearing in one application was not permitted to be related to the other. This is, as I understand, counsel will correct me if I am wrong, the first time these actions have been heard or consolidated for the purpose of hearing. This is the first opportunity that anybody has had of presenting any testimony of the effect of all these operations upon independent operators. Now, there isn't an iota of testimony here in regard to competition, the effect of competition, or the necessary elements that go to the question of undue restraint of competition. And if the Commission will grant us additional time, we will undertake a presentation on that subject, in the public [fol. 2016] interest.

Mr. Abeles: Mr. Examiner before you close the record, I would like to ask certain questions which I think—

Mr. Inglis: I have a witness I am waiting for the applicant to close his case.

Exam. Livingstone: The applicant rested in this case yesterday Noon at 12:00 O'clock.

Mr. Abeles: I closed my case in chief.

Mr. Inglis: I am prepared to show here today by a witness——

Mr. Abeles: Before you get at that, I was in the midst of a statement which I am anxious to complete on the record.

Mr. Inglis: All right, sir. I will wait.

Mr. Abeles: With reference to what Mr. Wiprud has just said before the record is closed, I am quite anxious to clarify it with respect to the position of the Department of Justice in this case and in what respect it considers that this is a proper proceeding in which to develop the question which apparently is of concern to the Department, that is the possible restraint of competition by the operation of these motor vehicles. In that connection, I would like to point out as has been repeatedly pointed out in this record that the proceedings were reopened for further hearing for a single narrow purpose, namely to consider what if any modifications of condition 3 should be made. Now it seems from [fol. 2017] the appearance of Mr. Wiprud here for the Department of Justice that the Department is attempting to make that very narrow proceeding a vehicle for the determination of a question relating to restraint of trade. Which has no possible relation to the narrow question for which the proceedings were reopened. I would like very

frankly, I am confused about the position of the Department and unless it is as I have stated and if it is as I have stated; I think it is quite improper to present it at this time and place. Then I must admit I can't see the propriety of any of his motions.

Mr. Wiprud: May I answer that, Mr. Examiner?

Exam. Livingstone: Yes.

Mr. Wiprud: The position of the Division is the Anti-trust laws apply to transportation. They apply to transportation and there is nothing in the Interstate Commerce Act to the contrary. It is true that in merger proceedings, consolidation proceeding, acquisition proceedings, that the approval order of the Commission will set aside the Anti-trust laws in so far as the parties are concerned, and the transaction is concerned, but that exemption provision applies only to those financial proceedings. Now it is the duty of the Department of Justice to enforce anti-trust laws, that doesn't mean it infringes at all upon the regulatory power of the Interstate Commerce Commission. But until [fol. 2018] the Commission finally passes upon a given case, it certainly is clearly the duty and the Division has taken that position to present what is often lacking in these cases that is the evidence from the standpoint of the public interest to the end that the record may be complete and a monopoly or undue restraint of competition will not result. The Commission, of course, makes that decision. The Commission only makes that decision upon a record. The Division conceives it to be its duty under the Anti-Trust laws in these key proceedings and it considers this a key proceeding, that presents that evidence. I have been here for the two day period. I have heard the testimony. I have pointed out to the Examiner one element which we believe is necessary in order to properly appraise the effect upon competition. There are other elements that we could discuss, but the issue has been confined here to a very narrow, extremely narrow scope and I would like to inquire from the Examiner and from Counsel in what proceeding that has occurred prior or heretofore in this proceeding. Has there ever been an opportunity to present the competitive picture in so far as all the operations of this railroad are concerned.

Mr. Abeles: I can answer that very briefly. In every hearing that was held upon applications for certificates of public convenience and necessity, any Competitors of the

railroads along the routes involved were afforded and exer- [fol. 2019] cised fullest opportunities to appear and protest and oppose the granting of the application. The parties who would be directly affected by the competitive aspect or element of these operations were there, and had full opportunity to be heard and there are hundreds of pages of record of their testimony.

Exam. Livingstone: How about your map it hasn't been received.

Mr. Abeles: I move it be received.

Mr. Inglis: I object to the receipt of the map and the considerations of the Florida population figures, because they are inaccurate. I further object to the receipt of the map as to the Florida operations because they do not reveal the other truck lines operated by the railroad in the territory—

Mr. Beall: I concur in his objection.

Mr. Inglis: Therefore do not give the picture.

Exam. Livingstone: Your objection is on the record. The map is received as the applicant's Exhibit 1.

(Applicant's Exhibit 1, witness Arnold, received in evidence.)

Mr. Wiprud: May the record show the Division joints in the motion of Mr. Beall.

Mr. Inglis: Also the Florida carriers I represent join in Mr. Beall's motions.

Exam. Livingstone: Yes, sir. Are there any other questions of Mr. Arnold?

Mr. Abeles: I have one or two questions, just a few [for. 2020] and I will be very brief.

Redirect Examination.

(By Mr. Abeles):

Q. Mr. Inglis asked you whether any effort had been made by the applicant to adjust their rail schedules or their operating setups to the key station plan proposed in the order of January 24, 1941, or as I recall it any key station plan, wasn't that correct Mr. Inglis?

Mr. Inglis: I asked him what effort had been made to adjust the schedules or the other operating problems to the key station plan as it applied to Florida operations.

Mr. Abeles: Your question was restricted to Florida operation.

Mr. Inglis: Yes.

(By Mr. Abeles):

Q. Now Mr. Arnold in connection with the operation of train schedules, are they set up primarily to handle l.c.l. business or carload business?

A. Well the great preponderance of traffic is carload business and the train schedules are naturally set up as best meet conditions as affecting the movement of carload freight.

Q. A change in train schedules which we would assume might be made to relieve the impediment of these key stations would result in disrupting the service provided on carload business or would it have that tendency?

A. Well I don't get the application of that question to the key station proposition.

[fol. 2021] Q. Let us suppose on the Jacksonville River Junction route it might be possible to adjust our train schedules that certain of the impediments that would result from the imposition of the key stations proposed might be relieved. Would that be apt to have any effect upon the movement of the carload business carried by those trains?

A. Well it would to a large extent, because of the time required to peddle or transfer l.c.l. freight and delay the movement of the train.

Q. Now in connection with the transfer movement at various stations, I believe it was suggested by Mr. Inglis that we might be able to put station forces on that would enable us to perform the transfer movements at times when we say now we can not do it. I suppose that would be physically possible would it not?

A. Of course.

Q. We could do almost anything could we not if we didn't mind how much money we spent?

A. Practically so.

Q. So that the present set up as I understand it is adjusted to what the management regards as an economical and efficient method of operating the railroad as we can devise. Is that correct?

A. I think so.

Q. Now in connection generally with our position with [fol. 2022] respect to the key stations plan, Mr. Arnold, in

determining whether it could be made effective without seriously disrupting the effectiveness of our coordinated motor vehicle service, if we must not have regard first to the origin of the traffic, the destination of the movement. Is my question clear?

A. No, sir.

Q. In other words, the Commission has set up key stations, for example, on the Jacksonville-River Junction line. I believe at Quincy was the easternmost point there, Monticello, Tallahassee and River Junction. Now, as I understand the theory of your presentation, it is that we make no objection to the restrictions resulting from the establishment of those or any other key stations provided they are the origin and destination of package cars, is that correct?

A. Not entirely.

Q. You have accepted as unobjectional, for example, restrictions resulting from the key station plan where in most instances, not without exception, where package cars now operated from Point A to Point B, can satisfactorily handle that business, is that correct?

A. We have pointed that out in individual cases, yes.

Q. But the imposition of a key station restriction at point A and B, which would bar the handling of traffic by truck entirely between those two points does not take care of the distribution of traffic to or from intermediate points, is that [fol. 2023] correct?

A. That is correct.

Q. So that the movement, the origin and destination of the traffic and the direction of the movement must be considered I believe according to your theory in determining the propriety of key station restrictions.

A. That is correct.

Mr. Abeles: I think that is all.

Mr. Beall: I would like to ask one or two questions please.

Recross Examination.

(By Mr. Beall):

Q. You referred to carload and l.c.l. traffic. In order to clear me up on one point you have no doubt numerous any-quantity rates. How do you set it up in your statistics to divide this between carload and l.c.l. loads, what points do you use as a breaking point?

A. Well I don't think I can answer that question. That is an accounting question that I don't believe I have the information from which I could answer it.

Q. Maybe I could answer, Counsel.

(Discussion outside of the record)

A. It is ten thousand pounds.

Q. In connection with carload traffic, the various tariffs specify minimum weights for various classes of traffic. Can you tell me what is the lowest minimum weight for carload [fol. 2024] ratings you have on the Seaboard.

Mr. Abeles: I think you are going pretty far afield on this.

Mr. Beall: I will explain the purpose.

Mr. Abeles: I will have to put Mr. Kane on the stand if you want to go into that.

(Discussion outside of the record)

Mr. Abeles: It is my understanding it is ten thousand pounds.

Mr. Beall: For carload rating? I have two more questions not clearly cross examination, Mr. Abeles can answer it. In the original hearing on Sub No. 3, from Hamlet to Columbia, reference was made to two subsidiary rail companies of the Seaboard. One of them was identified as the Chesterfield and Lancaster Railway Company. The other was identified as the Charlotte, Monroe and Columbia Railroad Company. Will you please tell me from the points between which the Chesterfield and Lancaster Railway ran.

Mr. Abeles: From McBee to Jefferson, S. C.

Mr. Beall: Is that railroad still in operation?

Mr. Abeles: It is not.

Mr. Beall: In connection with your application under Sub No. 3, you asked for motor carrier rights paralleling those two railroads. Did you get them?

Mr. Abeles: We did.

[fol. 2025] Mr. Beall: Did you still have them?

Mr. Abeles: You mean, have they been revoked.

Mr. Beall: Yes, revoked or suspended in any way.

The Witness: Not to my knowledge.

(By Mr. Beall):

Q. Is it your contention you wish to retain those rights at this hearing?

A. We are not operating the truck that way, parallel to those lines at this time. In other words we are not serving Pageland or Jefferson.

Q. Are you willing to have those operating rights cancelled?

Mr. Abeles: I think that is as far as the witness ought to be called upon to testify in this proceeding on that point. He stated—

Exam. Livingstone: Revocation is not at issue in this proceeding.

Mr. Beall: That is all.

(By Mr. Inglis):

Q. Mr. Arnold, the adjustment of your truck schedules would not necessarily affect the movement of car load freight at all would it?

A. Well I think that would be possibly right far fetched if all the conditions or restrictions or what not on the truck operation were left out of consideration and adjustment of a truck schedule in and by itself. I would say no.

Q. I would like to ask one question to bring out the point, [fol. 2026] matters of managerial discretion that might be involved in your testimony here today, that doesn't affect the operation of carload freight trains, does it?

A. Well, there could be a number which are matters of managerial discretion that might not affect the movement of a train, to handle carload freight, of course.

Mr. Abeles: That is all.

Exam. Livingstone: If that is all, you may be excused.

(Witness excused.)

Mr. Inglis: I would like to know if that is the case for the railroad?

Mr. Abeles: Yes, that is all.

Exam. Livingstone: Proceed. The protestants may call their first witness.

Mr. Inglis: I have one other witness.

Exam. Lovingstone: Very well.

Mr. Inglis: I will call Mr. Wolfe.

[fol. 2027] W. T. WOLFE was sworn and testified as follows:

Direct examination.

By Mr. Inglis:

Tell the Examiner your name and where you live and your occupation, please, sir.

A. W. T. Wolfe, Traffic manage for Flamingo Truck Lines, Inc., Second and Pearl Street, Jacksonville, Fla.

Q. For how long have you been in the traffic work in Florida, Mr. Wolfe?

A. Traffic and transportation about thirty—well, thirty years is enough, I guess.

Q. In that work have you become generally familiar with the operations of common carrier truck lines in Florida?

A. I have.

Mr. Abeles: We will waive all questions of qualifications, Mr. Inglis.

By Mr. Inglis:

Q. With what common carrier truck lines operating in interstate commerce does the proposed Seaboard Tampa-Sebring truck operation compete?

A. Well——

Mr. Abeles: Mr. Examiner, we are faced right at the forefront of this witness' testimony with the question again, with the injection into this proceeding of questions that have to do with the public convenience and necessity of these operations.

[fol. 2028] (Question read by the reporter.)

Exam. Livingstone: What connection would that have with the definition of key points?

Mr. Inglis: I want to show that the relaxation of restrictions in this territory, if that relaxation allows an unrestricted interstate truck operation, would result in an unrestricted truck operation to which there was competition. In other words, that there was competition on the line and if the protection afforded competition in the former orders is lost, that these lines would be without the benefits that were given in the former orders.

Exam. Livingstone: No key points have been designated on that route from Tampa to Sebring.

Mr. Inglis: He seeks to remove the other restriction with prior orders of the Commission have said were placed there for the protection of the carriers that operate in the territory. I believe it is pertinent to show that the carriers that were protected by the order of February 17, 1940, continue to operate in the same territory.

Mr. Abeles: The applications and hearings upon the applications for this and other routes afforded all competitive truck lines in that territory an opportunity to be heard on the question of public convenience and necessity, Mr. Examiner, and the Commission, of course, must be taken to have considered that aspect of these cases. It concluded [fol. 2029] that notwithstanding any possible effect that the proposed operations might have upon competitive truck lines, the public convenience and necessity required their operation. Now, the sole question before us today is whether or not those operations should be permitted to function effectively. As to that, I can't perceive any relevancy of evidence showing what competition from independent truck lines may exist along these routes and the extent of that competition.

Mr. Inglis: Let me answer that before you rule, if you please, Mr. Examiner.

Exam. Livingstone: Yes, sir.

Mr. Inglis: The prior hearing did as Mr. Abeles stated afford an opportunity to the independent truck lines to show the competitive aspects of the application and those independent truck lines accepted that opportunity and showed at that time that they did compete with the Seaboard Railroad and the Interstate Commerce Commission after consideration of that testimony imposed condition 3 upon the operation of the Seaboard Truck Line in order that that operation be not harmful to the two truck lines that operate in the territory. Today with no mention whatsoever of competition, they seek to remove the protection which was placed on that operation. I believe it entirely appropriate that I show that the competition still exists that they still need the protection.

Exam. Livingstone: You may answer.

[fol. 2030] The Witness: St. Johns River Line Company from Tampa to Sebring.

Mr. Inglis: Following substantially the same route as the Seaboard-Tampa-Sebring operation?

The Witness: That is correct.

By Mr. Inglis:

Q. What other truck carriers?

A. The Hunt Truck Line.

Q. Does it follow substantially the same route?

A. Substantially the same route from Tampa to Sebring.

Q. Are there any other Florida common carrier truck lines serving individual points on the line?

A. Central Truck Lines and Flamingo Truck Lines, Great Southern Trucking Company.

Q. Which individual points do those carriers serve that lie on the Tampa-Sebring route?

A. They serve Tampa, Plant City, Lakeland——

Q. Plant City and Lakeland are not on the proposed route.

A. Bartwo, Mulberry, and Lake Wales.

Q. Tell us what independent common carrier truck lines operating in interstate commerce compete with the Seaboard, Jacksonville-River Junction operation or with parts of that operation?

A. Central Truck line between Jacksonville and Live Oak, Flamingo Truck Lines between River Junction and Live Oak, K. & L. Transportation Company between Jackson-[fol. 2031] ville and Tallahassee, Acme Freight Lines between Jacksonville and Lake City.

Exam. Livingstone: In all probability there is a truck line paralleling all these routes, isn't that right?

The Witness: That is substantially correct.

Mr. Inglis: However, the K. & L. Transportation operate from Jacksonville to Tallahassee does not use the same road as the Seaboard.

The Witness: No, it doesn't parallel the Seaboard, it goes up through Georgia.

By Mr. Inglis:

Q. Goes up through Georgia back by way of Thomasville, back through Tallahassee?

A. That is correct, but is competitive with the Jacksonville-Tallahassee business.

Q. What Florida common carrier truck line competes in interstate commerce with the Seaboard Tampa-Jacksonville route?

Mr. Abeles: I am going to object to it.

Exam. Livingstone: I still don't get the purpose of this, Mr. Inglis.

Mr. Inglis: It is perfectly all right for you to keep your position consistent. I still think that the other Florida truck operations on the Seaboard make a great deal of difference in this case. I am simply keeping my position consistent as well by offering to prove what you would not let me bring out on cross-examination.

Exam. Livingstone: There has been no change in opera- [fol. 2032] tion of common carrier truck lines since the trial of the former applications.

Mr. Inglis: Yes, there has been a slight change in the frequency of the Jacksonville-Tallahassee service.

Exam. Livingstone: As far as the routes are concerned, they are the same, are they not?

Mr. Inglis: No, I believe the witness will tell you there are some more operations in existence that also serve Tallahassee.

Mr. Abeles: That is not the operation of his company.

The Witness: Yes.

Mr. Inglis: Those new operations are not by K. & L. but are by his company.

Mr. Abeles: That doesn't parallel this route, does it?

Mr. Inglis: It doesn't parallel that specific route, Mr. Abeles, but it is competitive with the traffic moving from Jacksonville into the west Florida territory.

Mr. Abeles: That is true of every truck line in Florida that operates either to or from points on this route or in connection with any line that does reach points on this route, isn't that same thing true?

The Witness: Yes, the truck lines do comprehensively serve Florida, that is right.

Mr. Inglis: The independent common carrier truck lines comprehensively serve every point named in the Seaboard [fol. 2033] truck application—named in subs 9 and 10 and 19 of the current Seaboard applications.

The Witness: I think that is substantially correct.

By Mr. Inglis:

Q. Rendering in some instances as frequent service as ten times a day, to take the whole combination of the service?

A. Probably to that extent, that would have to be checked.

Mr. Inglis: I believe that is all, Mr. Wolfe.
Exam. Livingstone: Cross-examination?
Mr. Abeles: I have no cross-examination of the witness.
Mr. Inglis: Let me ask one more question.
Exam. Livingstone: All right.

By Mr. Inglis:

Q. Mr. Wolfe, have you in your experience in traffic with common carrier truck lines ever offered to put into effect joint rates for a rail-motor service to any point served on your line.

A. We have.

Mr. Abeles: Just a minute, I object, Mr. Examiner on this ground, to the suggestion that use of independent motor carriers for the performance of the type of service for which we have been granted authority has been considered exhaustively by the Commission and definitely decided once and for all in the report and order of January 24, 1941, the Commission rejecting the feasibility of that suggestion consequently, I see no relevancy of the question.

[fol. 2034] (Question read at the request of the Examiner.)

Exam. Livingstone: Objection sustained.
Mr. Inglis: Have you, Mr. Wolfe, on behalf of independent common carrier truck lines in interstate commerce in Florida ever offered to establish joint rates with the applicants here to points served by your line but not served by their line.
Mr. Abeles: Same objection.
Exam. Livingstone: Same ruling.
Mr. Inglis: I offer to prove by this witness at this time that he has made such offers as were described in the two preceding questions and in both instances the offers are not and have not been accepted by the railroad.

By Mr. Inglis:

Q. Mr. Wolfe, have you made an analysis of the effect of railroad truck operations on the revenues of the Florida Truck lines?

A. No, I haven't made any detailed analysis of it. The matter has come to my attention quite frequently through the commercial department about business they have lost to

the rail truck operations, but I have no figures as to the exact tonnage and revenue involved in that loss.

Q. You do know, however, that you have lost considerable business to rail operated truck lines in Florida?

A. That is true.

Mr. Inglis: No further questions.

[fol. 2035] Cross-examination.

By Mr. Abeles:

Q. Has it by any chance come to your attention, Mr. Wolfe, that the railroads may have lost any business to the common carrier truck lines in Florida?

A. That is hypothetical. I wouldn't know.

Mr. Abeles: That is all.

Exam. Livingstone: Is there anything further, gentlemen?

(No response.) You are excused.

(Witness excused.)

Exam. Livingstone: Do you desire to file briefs?

Mr. Abeles: Might I ask whether this is going to be a proposed report case?

Exam. Livingstone: No, this is set for hearing only. There will be no recommended report and order.

(Discussion outside the record.)

Mr. Beall: I want to make a motion at this time, to move the Commission to make this a proposed report hearing.

Exam. Livingstone: It goes directly to the Commission for determination.

Mr. Beall: I move the Commission to change its order as to provide for a proposed report rather than a final order.

(Discussion outside the record.)

Mr. Beall: I make the motion that parties be allowed forty-five days in which to file briefs on these pending [fols. 2036-2037] motions, forty-five additional days from the time the Commission determines these questions for the filing of final briefs.

Exam. Livingstone: That is a long time.

(Discussion outside the record.)

Mr. Beall: I will stand on the motion I made, forty-five and forty-five.

Exam. Livingstone: We will let the brief date be January 14, 1942.

Mr. Beall: Note my exception please and as standing on my motion.

Mr. Abeles: Before the record closes, I would like to have it show if it does not already, that the Examiner offered to continue the hearing for an additional day for the purpose of receiving any evidence desired to be offered by the protestants. The offer was declined. I don't think the record shows that.

Mr. Beall: I object to that being a correct statement of the situation that the offer of proof has been made, the evidence has been refused, and the witnesses have gone home before the offer herein was made.

Exam. Livingstone: The hearing is closed and the case stands submitted at ten minutes to six.

(At 5:50 o'clock, p. m., November 13, 1941, the hearing was closed.)

[fol. 2038] IN THE SUPREME COURT OF THE UNITED STATES

DESIGNATION OF RECORD BY APPELLANTS—Filed October 14, 1944

To the United States of America, the Interstate Commerce Commission, Legh R. Powell, Jr., and Henry W. Anderson, Receivers of the Seaboard Air Line Railway Company, or Their Counsel:

Please take notice that pursuant to the statutes and rules of Court in such case made and provided, the American Trucking Associations, Inc., Flamingo Truck Lines, Inc., Hunt Truck Lines, Great Southern Trucking Co., Central Truck Lines, Inc., K. & L. Transportation Company, Inc., and St. Johns River Line Company, plaintiffs in the above-entitled cause and in connection with their appeal, make the following designation of record:

1. Complaint—all—R. 4, et seq.

2. Amendment to Complaint—all—R. 171, et seq.

3. Order Permitting Amendment—all—R. 170, et seq.

4. Answer of the United States—all—R. 173, et seq.

5. Answer of the Interstate Commerce Commission—all—R. 175, et seq.

[fol. 2039] 6. Motion for Leave to Intervene (Seaboard Air Line Railway)—all—R. 179, et seq.

7. Order Granting Motion to Intervene—all—R. 183, et seq.

8. Answer of Intervenor—all—R. 185, et seq.

9. Stipulations 1 to 4—all—R. 200, et seq.

10. Opinion of Court and Dissenting Opinion—all—R. 365, et seq.

11. Judgment—all—R. 384.

12. Notice for Appeal, R. 385.

13. Petition for Appeal, R. 387.

14. Order Allowing Appeal, R. 388.

15. Assignment of Errors, R. 391, et seq.

16. Jurisdictional Statement, R. 397, et seq.

17. Citation, R. 410.

18. Portion of Record Before the Interstate Commerce Commission, to be printed. (List of dockets and pages attached.)

19. Portion of proceedings before the District Court, to be printed:

(a) Quotation from page 6 Plaintiff's Opening Brief before the District Court, R. 408

(b) Quotation from Opening Brief of Interstate Commerce Commission before the District Court, R. 141, et seq.

(c) Quotation from Transcript of Argument before the District Court, R. 260.

20. Order Allowing Enlargement of Time to Submit Stipulations, etc., R. 390.

21. Petition of Receivers of Seaboard Air Line Railway for Enlargement of Time to File Designation of Record, R. 427.

22. Order Enlarging Time for Filing Designation of Record by Intervening Defendant, R. 431.

23. Marshal's Return on Copy of Citation, R. 435.

24. Clerk's Memorandum as to Cost Bond, R. 436.

25. Statement of Points Upon Which Appellants Intend to Rely, R. 506, et seq.

[fols. 2040-2048] 26. Order Extending Time Within which Record on Appeal may be filed in Supreme Court, R. 515.

27. This Designation of Record.

October 13, 1944.

J. Ninian Beall, Investment Building, Washington 5, D. C., Attorney for Appellants.

Brashears, Beall & Beasley, Investment Building, Washington 5, D. C., of Counsel.

[fol. 2049] IN THE SUPREME COURT OF THE UNITED STATES

STATEMENT OF POINTS TO BE RELIED UPON—Filed October 14, 1944

Appellants, both in brief and on oral argument, will rely upon each and every one of the points raised specifically in their assignments of error filed herein, before the District Court and identified as R. 391 of the Record, which said points, without omitting any thereof, but for the purposes of convenience and clarity, may be the more definitely and succinctly stated as follows:

Point 1

The orders of the Interstate Commerce Commission as set forth in Paragraph 4 of appellants' complaint filed with the District Court and including the reports and orders published in 17 M. C. C. 413; 21 M. C. C. 773; 28 M. C. C. 5 and 34 M. C. C. 441, were and are illegal and void, because the Commission exceeded its powers and jurisdiction and undertook to issue certificates of convenience and necessity for hybrid operations, part railroad and part motor carrier, under Part II of the Interstate Commerce Act, and further undertook to exempt such operations from the provisions of law requiring proof of public convenience and necessity (Sec. 206, 207), and to exempt such operations from compliance with the tariff and accounting provisions of Part II (Sec. 216 and 220), and failed and refused to conduct proper hearings and to receive evidence

[fol. 2050] upon which the required statutory findings under Section 5(b) of Part I (old Section 213 of the Motor Carrier Act) could be made, and made findings without evidence, and made negative findings when the statute requires affirmative findings, and generally disregarded the provisions of the National Transportation Policy with respect to fair and impartial regulations of and the preservation of the inherent advantages of motor carriers.

(Assignments of Error Nos. 1, 2 and 3.)

Point 2

The orders of the Interstate Commerce Commission, as aforesaid, were and are illegal and void because the Commission failed and refused to either assign the applications for hearing before properly constituted Joint Boards or to conduct the hearings itself as required by statute, and the Commission failed and refused to hear and consider material evidence bearing on convenience and necessity and denied appellants a fair and reasonable hearing.

(Assignments of Error Nos. 4 to 7.)

10/13/44.

J. Ninian Beall, Investment Building, Washington, D. C., Attorney for Appellants.

Brashears, Beall & Beasley, Investment Building, Washington, D. C., of Counsel.

[fol. 2051] [File endorsement omitted.]

[fol. 2052] IN THE SUPREME COURT OF THE UNITED STATES

DESIGNATION BY INTERVENING DEFENDANTS OF ADDITIONAL PORTIONS OF THE RECORD TO BE PRINTED—Filed October 19, 1944

To the Clerk of the Supreme Court of the United States:

Counsel for Appellants having filed in this Court a document captioned "Designation of Record by Appellants" which Intervening Defendants are advised is intended to serve as Appellants' Designation of the Portions of the

Record to be Printed, Legh R. Powell, Jr., and Henry W. Anderson, as Receivers of the Properties of Seaboard Air Line Railway Company, Intervening Defendants below, hereby designate as additional portions of the record to be printed, the following:

1. The entire record of testimony before the Interstate Commerce Commission, including those portions designated by Appellants, but exclusive of all exhibits, the printing, so far as practicable, to be arranged in the chronological order of the hearings at which the testimony was submitted, viz.:

Docket No. MC 86687, Sub No. 3, held June 11th and 12th, 1937,

Docket No. MC 86687 and MC 86687, Sub No. 1, held June 12th, 1937,

Docket No. MC 86687, Sub No. 7, held June 14th, 1937,

Docket No. MC 86687, Sub Nos., 2, 4, 5 and 6, held June 15th and 16th, 1937,

Docket No. MC 86687, Sub Nos. 9 and 10, held October 19th and 20th, 1937,

Docket No. MC 86687, Sub No. 8, held October 27th, 1937,

Docket No. MC 86687, Sub No. 15, held March 14th, 1938, [fol. 2053] Docket No. MC 86687, Sub No. 18, held June 22nd and 23rd, 1938,

Docket No. MC 86687, Sub No. 19, held January 23rd, 1939,

Docket No. MC 86687 and Sub Nos. 1 to 10 inclusive, 15, 18 and 19, held November 12th and 13th, 1941.

2. The portions of the Brief for Plaintiffs filed with the Court below set forth in subparagraphs (a) to (o), inclusive, of paragraph 4 of Intervening Defendants' Praecipe Designating Additional Parts of the Record to be Incorporated in the Transcript.

3. Testimony of R. W. Rogers beginning on page 19 and ending on page 35 of the transcript of the proceedings before the Court below on June 1, 1944.

4. This Designation of Additional Portions of the Record to be Printed.

Respectfully, W. R. C. Cocke, Thomas L. Preston, Chas. T. Abeles, Attorneys for Legh R. Powell, Jr., and Henry W. Anderson, Receivers of the Properties of Seaboard Air Line Railway Company, Intervening Defendants.

[fol. 2054] AFFIDAVIT OF SERVICE

STATE OF VIRGINIA,
City of Norfolk, ss:

Before me, a Notary Public in and for the State and City aforesaid, personally appeared Charles T. Abeles, who, being by me duly sworn, made oath and said that he served the foregoing designation by intervening defendants of additional portions of the record to be printed upon all parties to this cause by mailing a copy thereof to their respective Counsel, viz.:

J. Ninian Beall, Esq., of Brashears, Beall and Beasley, Investment Building, Washington 5, D. C.

Roland Rice, Esq., 1424 16th Street, N. W., Washington, D. C.

Samuel W. Shelton, Esq., Tenth Street Building, Richmond, Virginia.

Edward Dumbauld, Esq., Special Assistant to the Attorney General, Department of Justice, Washington, D. C.

Daniel H. Kunkel, Esq., Attorney Interstate Commerce Commission, Washington 25, D. C.

Chas. T. Abeles.

Subscribed and sworn to before me this 17th day of October, 1941. W. H. Wallace, Jr., Notary Public. My Commission expires April 13, 1947. (Notarial Seal.)

[fol. 2055] [File endorsement omitted.]

[fol. 2056] SUPREME COURT OF THE UNITED STATES

ORDER NOTING PROBABLE JURISDICTION—November 20, 1944

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted and the case is assigned for argument immediately following Nos. 507 and 508.

Endorsed on Cover: File No. 49,011 E. Virginia, D. C. U. S., Term No. 558. American Trucking Associations, Inc., Southern Motor Carriers, Rate Conference, Flamingo Truck Lines, Inc., et al., Appellants, vs. The United States of America, Interstate Commerce Commission, Legh R. Powell and Henry W. Anderson, Receivers of the Seaboard Air Line Railway Company. Filed October 6, 1944. Term No. 558 O. T. 1944.